

DEFENDANT  
EXHIBIT

A

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>JAMES LEATH,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>CIVIL NO. 3:2017-CV-1418</b>
	)	
<b>v.</b>	)	
	)	
<b>UNITED STATES, ET AL.,</b>	)	
	)	
<b>Defendants.</b>	)	

**DECLARATION OF SUSAN ALBERT, PARALEGAL SPECIALIST**

1. I am currently employed by the Federal Bureau of Prisons (hereafter “BOP”), as a Paralegal Specialist at the Federal Correctional Complex, Allenwood, Pennsylvania. Pursuant to my official duties, I have access to records maintained in the ordinary course of business by the Federal Bureau of Prisons (“BOP”), including records relating to inmate Central Files.

2. I am familiar with the complaint filed by inmate James Leath, federal register number 47208-066.

3. Records show that on August 22, 2016, Northeast Regional Office staff received an administrative tort claim (TRT NER 2016-06382) filed by the claimant alleging failure to protect, and a sum certain amount of \$5,000,000. See Attachment 1 – Form 95.

4. This administrative tort claim was denied by the Northeast Regional Counsel on February 13, 2017. See Attachment 2 – denial letter.

5. Attachment 3 is a true and accurate copy of the Administrative Remedy Generalized Retrieval.

6. Leath arrived at USP Lewisburg on October 5, 2015, to participate in the Special Management Unit (“SMU”) for closer supervision due to disruptive behavior. See Attachment 4 – Memorandum to Warden Maiorana, dated June 5, 2015.

7. Attachment 5 is a true and accurate copy of the “Intake Screening Form.”

8. On April 24, 2016, Leath and his cellmate were placed in cell 315, on J Block. See Attachment 6 – SENTRY Inmate History Quarters.

9. On May 15, 2016, Leath and his cellmate were moved from cell 315 to cell 316. Id.

10. On May 30, 2016, at approximately 9:08 p.m., the J Block Officer was making rounds in the housing unit, and observed inmate Leath’s cellmate standing at the cell door with blood on his face. When the Officer asked Leath’s cellmate what occurred, he responded by stating “We fought.” The Unit Officer called for assistance. After assistance arrived, both inmates were handcuffed and taken out of the cell for immediate medical evaluation. See Attachment 7 – Incident Report #2856472.

11. Leath was initially examined by institution medical, prior to being transported to the outside hospital. Leath's primary complaint was that he could not see. It was noted that he had significant periorbital swelling, missing upper cartilage on both ears, a laceration to his left eyelid, trauma to the cornea of his left eye, lateral gaze with his right eye, abrasion to his upper forehead, trauma to the inside of his lip, bite mark on his right thumb, missing pad on his right middle finger, bruising over his left clavicle, bruising on the upper medial aspect of his right bicep, an abrasion to his right first knuckle, and an abrasion over his left shoulder blade. Further notes reveal that Leath was alert and oriented and was able to ambulate on his own. See Attachment 8, pp. 13-15 – medical records.

12. Leath was transported to the outside hospital on May 30, 2016, at approximately 10:27 p.m. See Attachment 9, p.2. – SENTRY ADM-REL.

13. On June 1, 2016, Leath was discharged from the outside hospital where he underwent surgery and was treated for multiple traumatic injuries including, "bilateral ruptured globe fractures, bilateral intra/extra conal hemorrhage, left medial orbital wall fracture, tiny left sided apical pneumothorax, medial right lower lobe pneumothorax, bilateral pulmonary contusions, and right non-displaced rib fx 9-11." See Attachment 8, pp.8-11.

14. Leath returned to USP Lewisburg at approximately 6:12 p.m. See Attachment 9, p.2.

15. Leath's follow-up instructions included no strenuous activity for 8 weeks, follow-up with psychology staff regarding his poor vision prognosis and dental concerns, medication for pain management, and eye drops/ointments. See Attachment 8, pp.4-7.

16. Leath was transferred to USP Coleman, Florida, on July 20, 2016. His diagnosis at the time of his transfer was minimal vision in his right eye, and no vision in his left eye. Id., p.1-3.

17. In addition to medical treatment, Leath was routinely evaluated by Psychology staff with no noted adjustment concerns. See Attachment 10 – psychology records.

18. On June 13, 2016, Leath appeared in front of the Discipline Hearing Officer (“DHO”). He was sanctioned to 27 days, disallowance of Good Conduct Time, 30 days of disciplinary segregation, and 120 days loss of commissary privileges for code 201, fighting with another person. See Attachment 11 – DHO Report.

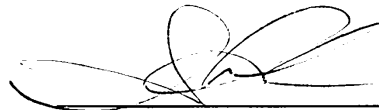
I declare that the foregoing is true and correct and is given under penalty of perjury pursuant to 28 U.S.C. § 1746. I further declare that the documents attached to this declaration are true and accurate copies of documents maintained in the ordinary course of business by the Federal Bureau of Prisons and were created at



or near the time of the occurrence of the matters reflected therein by someone with knowledge and were made by the Bureau of Prisons as a regular practice.

I am the custodian of the documents or am otherwise qualified to execute this certification, pursuant to Fed. R. Evid. 803(6) and 902(11). I declare that the foregoing is true and correct, and is given under penalty of perjury pursuant to 28 U.S.C. §1746.

Executed this 26th day of August, 2019.

A handwritten signature in black ink, appearing to read 'Susan Albert', is written over a horizontal line.

Susan Albert, Paralegal Specialist  
FCC Allenwood

<b>CLAIM FOR DAMAGE, INJURY, OR DEATH</b>		<b>INSTRUCTIONS:</b> Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM OMB N	<b>DEFENDANT EXHIBIT</b>  <b>Attach. 1</b>
1. Submit to Appropriate Federal Agency: Federal Bureau of Prisons 320 First St., NW Washington, DC 20534		2. Name, address of claimant, and claimant's personal representative (See instructions on reverse). Number, Street, City, State and Zip code. James Leath, #47208-066 USP - Allenwood P.O. Box 3000 White Deer, PA 17887			
3. TYPE OF EMPLOYMENT <input type="checkbox"/> MILITARY <input checked="" type="checkbox"/> CIVILIAN	4. DATE OF BIRTH [REDACTED]	5. MARITAL STATUS SINGLE	6. DATE AND DAY OF ACCIDENT 5/30/16, Monday	7. TIME (A.M. OR P.M.) 12:00 PM	
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary). Mr. James Leath was an inmate at USP at Lewisburg and was attacked by another inmate without provocation. The corrections officers allowed this attack to occur and were aware of the attackers violent propensities.					
9. <b>PROPERTY DAMAGE</b> NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code). N/A. BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side). N/A.					
10. <b>PERSONAL INJURY/WRONGFUL DEATH</b> STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT. As a result of this incident, James Leath suffered blindness in his right eye and partial blindness in left eye. Mr. Leath was taken to the hospital emergency surgery.					
11. <b>WITNESSES</b>					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
Corrections Officers at USP Lewisburg		USP Lewisburg, 2400 Route F. Miller Drive Lewisburg, PA 17837			
12. (See instructions on reverse). <b>AMOUNT OF CLAIM (in dollars)</b>					
12a. PROPERTY DAMAGE 0	12b. PERSONAL INJURY \$5,000,000.00	12c. WRONGFUL DEATH 0	12d. TOTAL (Failure to specify may cause forfeiture of your rights). \$5,000,000.00		
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side). James Leath		13b. PHONE NUMBER OF PERSON SIGNING FORM 412 215 735 7535		14. DATE OF SIGNATURE 7/9/16	
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM  The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).		CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS  Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)			

Authorized for Local Reproduction  
Previous Edition is not Usable  
95-109

NSN 7540-00-634-4046

STANDARD FORM 95 (REV. 2/2007)  
PRESCRIBED BY DEPT. OF JUSTICE  
28 CFR 14.2

INSURANCE COVERAGE	
In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.	
15. Do you carry accident insurance? <input type="checkbox"/> Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. <input checked="" type="checkbox"/> No	
16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	17. If deductible, state amount.
18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).  N/A.	
19. Do you carry public liability and property damage insurance? <input type="checkbox"/> Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code) <input checked="" type="checkbox"/> No	
INSTRUCTIONS	
<p><b>Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.</b></p> <p style="text-align: center;"><b>Complete all items - Insert the word NONE where applicable.</b></p> <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <p>A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY</p> <p>Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.</p> <p>If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.</p> <p>The claim may be filed by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.</p> <p>If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.</p> </div> <div style="width: 48%;"> <p>DAMAGES IN A SUM CERTAIN FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN TWO YEARS AFTER THE CLAIM ACCRUES.</p> <p>The amount claimed should be substantiated by competent evidence as follows:</p> <p>(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.</p> <p>(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.</p> <p>(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.</p> <p>(d) Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.</p> </div> </div>	
PRIVACY ACT NOTICE	
<p>This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.</p> <p>A. <b>Authority:</b> The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.</p> <p>B. <b>Principal Purpose:</b> The information requested is to be used in evaluating claims.</p> <p>C. <b>Routine Use:</b> See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.</p> <p>D. <b>Effect of Failure to Respond:</b> Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."</p>	
PAPERWORK REDUCTION ACT NOTICE	
<p>This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.</p>	

STANDARD FORM 95 REV. (2/2007) BACK

**LAW OFFICES OF JONATHAN J. SOBEL**  
ATTORNEY AT LAW

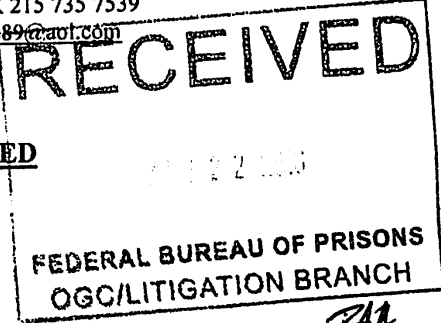
Jonathan J. Sobel, Esquire

Shm 7  
AUG 29 2016  
NEO PHILADELPHIA  
PENNSYLVANIA  
1500 WALNUT STREET  
SUITE 2000  
PHILADELPHIA, PA 19102  
TEL 215 735-7535  
FAX 215 735 7539  
Mate89@aol.com

August 16, 2016

**VIA CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

Federal Bureau of Prisons  
320 First Street, N.W.  
Washington, D.C. 20534



**RE: James Leath**

Dear Sir/Madam:

Enclosed please find Mr. Leath's Form 95, in this matter. Would you kindly process this accordingly. Please direct all future correspondence to my attention.

Should you have any questions, please do not hesitate to contact the undersigned. I thank you in advance for your time and attention in this matter.

Very truly yours,

JONATHAN J. SOBEL

JJS/cl  
Enc.

Jonathan J. Sobel, Esquire  
1500 Walnut Street, Suite 2000  
Philadelphia, PA 19102

CERTIFIED MAIL



PHILADELPHIA  
PA 191  
17 AUG '16  
PM 3 L

7016 1370 0001 6591 4962

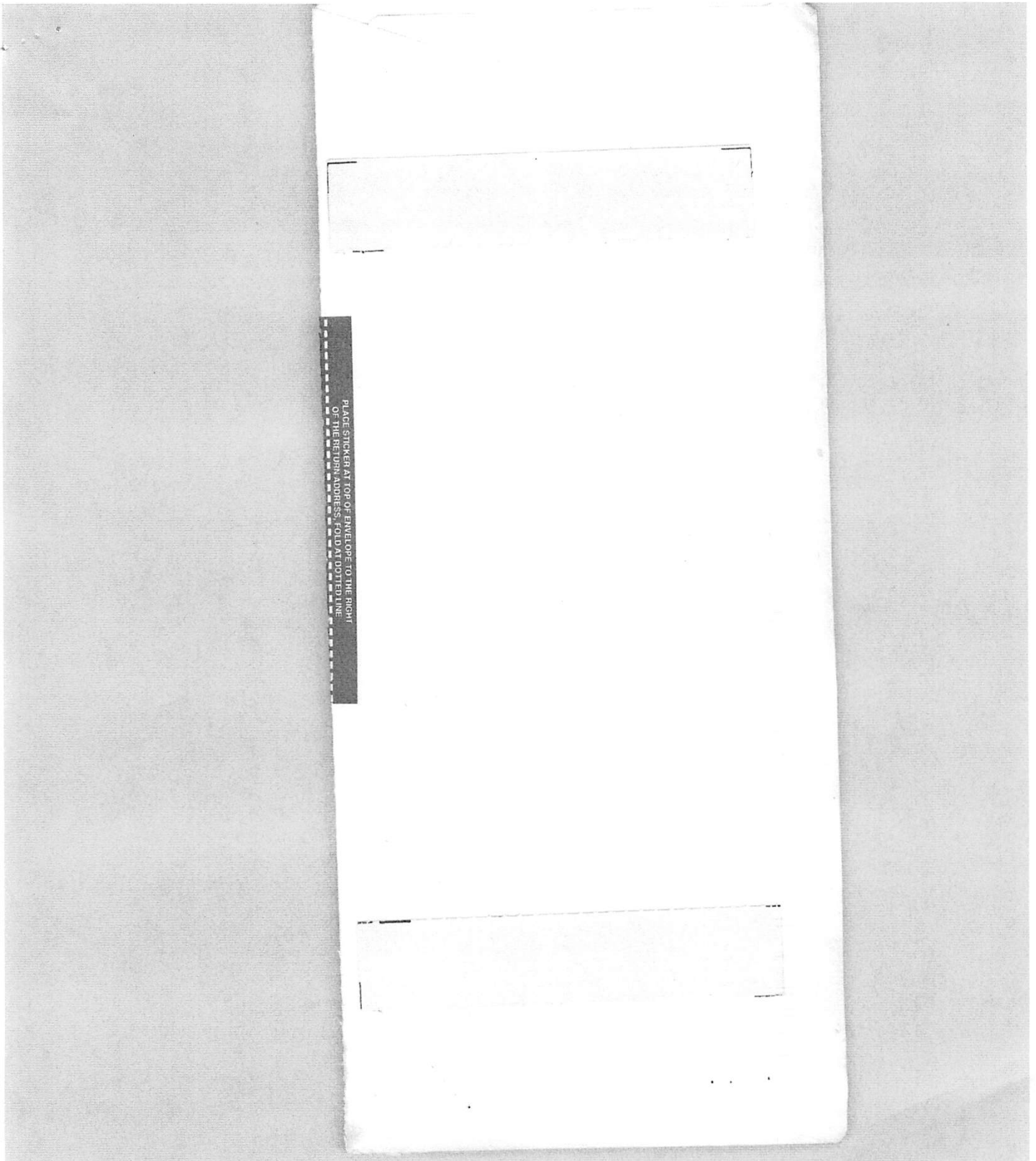


958

Federal Bureau of Prisons  
320 First Street, N.W.  
Washington, D.C. 20534

20534-







U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

DEFENDANT  
EXHIBIT

Attach. 2

Via Certified and Return Receipt Mail

U.S. Custom House-7th Floor  
2nd & Chestnut Streets  
Philadelphia, PA 19106

February 13, 2017

James Leath, Reg. No. 47208-066  
USP Atlanta  
P.O. Box 150160  
Atlanta, GA 30315

RE: Administrative Claim No. TRT-NER-2016-06518

Dear Mr. Leath:

Your Administrative Claim No. TRT-NER-2016-06518, properly received on August 22, 2016, has been considered for settlement as provided by the Federal Tort Claims Act (FTCA), 28 U.S.C. §2672, under authority delegated to me by 28 C.F.R. §543.30. Damages are sought in the amount of \$5,000,000.00 based on a personal property and injury claim. Specifically, you allege on May 30, 2016, the staff at USP Lewisburg failed to protect you and you were assaulted by another inmate causing blindness in your right eye and partial blindness in your left eye.

An investigation, including review of your medical records, shows on May 30, 2016, upon observing you and your cellmate with injuries consistent with a fight, the staff at USP Lewisburg immediately intervened. Following the incident, you were evaluated by the Health Services staff at USP Lewisburg and transported to an outside medical center for further treatment. There is no evidence that you experienced a compensable loss as the result of negligence on the part of any Bureau of Prisons employee. Accordingly, your claim is denied.

If you are dissatisfied with this decision, you may bring an action against the United States in an appropriate United States District Court within six (6) months of the date of this letter.

Sincerely,


A handwritten signature in black ink, appearing to read "Michael D. Tafelski", is written over the typed name.

Michael D. Tafelski  
Regional Counsel

cc: David J. Ebbert, Warden, USP Lewisburg

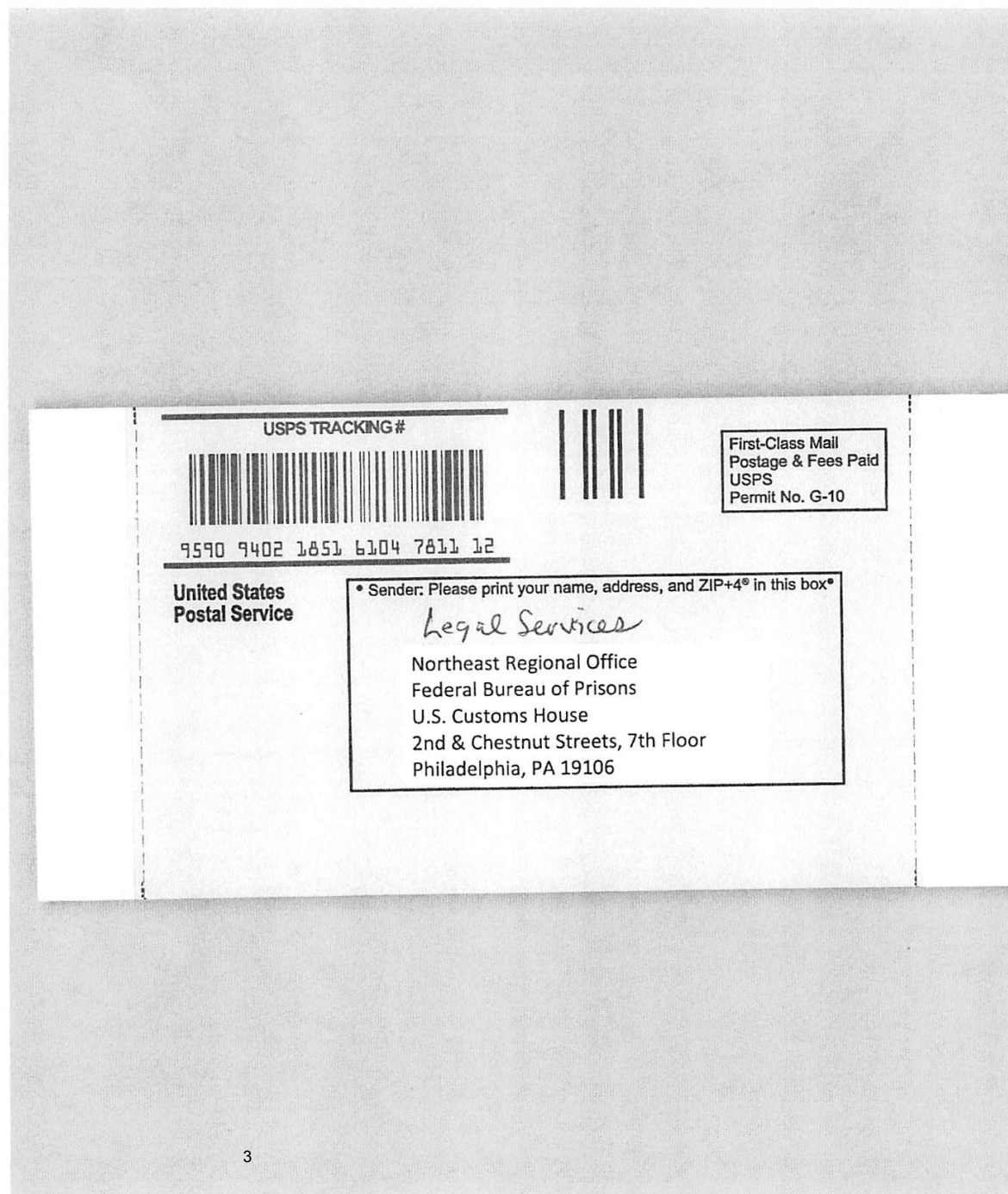


RET-NEK 2016-06518


SENDER: COMPLETE THIS SECTION	
<input type="checkbox"/> Complete items 1, 2, and 3. <input type="checkbox"/> Print your name and address on the reverse so that we can return the card to you. <input type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits.	
1. Article Addressed to:  <div style="text-align: center;"> <b>James Leath #47208-066</b>  <b>USP Atlanta</b>  <b>P.O. Box 150160</b>  <b>Atlanta, GA 30315</b> </div>	
<div style="text-align: center;">           9590 9402 1851 6104 7811 12       </div>	
2. Article Number (Transfer from service label) <div style="text-align: center;"> <b>7013 0600 0001 9910 0236</b> </div>	
COMPLETE THIS SECTION ON DELIVERY	
A. Signature <div style="text-align: center; font-size: 2em; font-weight: bold;">X</div>	
B. Received by (Printed Name) <span style="float: right;"><input type="checkbox"/> Agent <input type="checkbox"/> Addressee</span>	
C. Date of Delivery	
D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
3. Service Type	
<input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail® <input type="checkbox"/> Insured Mail Restricted Delivery	<input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery
PS Form 3811, July 2015 PSN 7530-02-000-9053	

Domestic Return Receipt

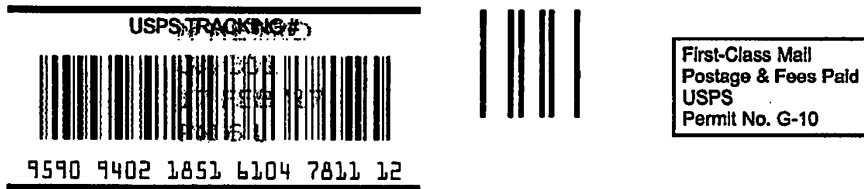




TET-MER 2016-06518

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete items 1, 2, and 3.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>	<p>A. Signature <span style="float: right;"><input type="checkbox"/> Agent <input type="checkbox"/> Addressee</span></p> <p><b>X</b> </p>	
<p>1. Article Addressed to:</p> <p>James Leath #47208-066 USP Atlanta P.O. Box 150160 Atlanta, GA 30315</p> <p>9590 9402 1851 6104 7811 12</p>	<p>B. Received (Printed Name) <span style="float: right;">C. Date of Delivery</span></p> <p><i>James Leath</i> <span style="float: right;">2/17/17</span></p>	
	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If yes, enter delivery address below: <input type="checkbox"/> No</p>	
<p>2. Article Number (Transfer from service label)</p> <p>7013 0600 0001 9910 0236</p>	<p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature <input type="checkbox"/> Priority Mail Express®</p> <p><input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Registered Mail™</p> <p><input type="checkbox"/> Certified Mail® <input type="checkbox"/> Registered Mail Restricted Delivery</p> <p><input type="checkbox"/> Certified Mail Restricted Delivery <input checked="" type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Signature Confirmation™</p> <p><input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery</p> <p><input type="checkbox"/> Insured Mail® <input type="checkbox"/> Restricted Delivery</p>	

PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt

**United States  
Postal Service**

• **Sender:** Please print your name, address, and ZIP+4® in this box •

*Legal Services*  
Northeast Regional Office  
Federal Bureau of Prisons  
U.S. Customs House  
2nd & Chestnut Streets, 7th Floor  
Philadelphia, PA 19106



PR15

Page 1 of 1

DEFENDANT  
EXHIBIT

Attach. 3

ALMG2 \*ADMINISTRATIVE REMEDY GENERALIZED RETRIEVAL \*  
PAGE 001 OF 001

FUNCTION:   LST   SCOPE:   REG     EQ   47208-066   OUTPUT FORMAT:   FULL    
-----LIMITED TO SUBMISSIONS WHICH MATCH ALL LIMITATIONS KEYED BELOW-----  
DT RCV: FROM        THRU        DT STS: FROM        THRU         
DT STS: FROM    TO    DAYS BEFORE "OR" FROM    TO    DAYS AFTER DT   RDU    
DT TDU: FROM    TO    DAYS BEFORE "OR" FROM    TO    DAYS AFTER DT   TRT    
STS/REAS:                                                                        
SUBJECTS:         
EXTENDED:    REMEDY LEVEL:       RECEIPT:          "OR" EXTENSION:           
RCV OFC :   EQ                                                                                                                                         
TRACK: DEPT:         
PERSON:         
TYPE:         
EVNT FACL:   EQ                                                                                                                                         
RCV FACL.:   EQ                                                                                                                                         
RCV UN/LC:   EQ                                                                                                                                         
RCV QTR.:   EQ                                                                                                                                         
ORIG FACL:   EQ                                                                                                                                         
ORG UN/LC:   EQ                                                                                                                                         
ORIG QTR.:   EQ                                                                                                                                       

G5152 NO REMEDY DATA EXISTS FOR THIS INMATE



U. S. Department of Justice Federal Bureau of Prisons  
USP Canaan

**DEFENDANT  
EXHIBIT**  
**Attach. 4**

3057 Easton Turnpike  
Waymart, PA 18472

June 5, 2015

MEMORANDUM FOR **C. MAIOR** C. AIORANA, WARDEN

FROM: F Unit Manager **J. Kaminski**

SUBJECT: Special Management Unit (SMU) Referral  
RE: LEATH, James  
Reg. No.: 47208-066

We are recommending that inmate Leath be considered for placement in the Special Management Unit in accordance with Program Statement 5217.01. Inmate Leath was received at USP Canaan on October 27, 2014, as an initial designation.

Inmate Leath has incurred an incident report for Code 224/Assaulting without Serious Injury and Code 115/Destroying and/or Disposing of any Item During a Search or Attempt to Search. Inmate Leath shoved a correctional officer to the ground, after the officer attempted to search him, then flushed the contraband down a toilet.

Inmate Leath's actions and behavior have resulted in disruptive situations that endanger the welfare of staff and inmates. Inmate Leath's behavior requires greater management to address his interaction with others to ensure the safety, security, and operation in an institutional setting.

I have reviewed the attached material concerning the classification of the above referenced individual as a Special Management Unit Case and my decision is to:

☐ I concur with the Unit Team to approve a Special Management Unit referral.

☐ I do not concur with the Unit Team and disapprove referral to a Special Management Unit.

C. Maiorana, Warden

DEFENDANT  
EXHIBIT

Attach. 5

LEWD3 535\*08 \*  
PAGE 001 \*FEDERAL BUREAU OF PRISONS  
INTAKE SCREENING FORM\* 10-05-2015  
\* 15:33:24NAME.....: LEATH, JAMES  
REGISTER NO: 47208-066  
RACE / SEX.: BLACK / MALE  
RESIDENCE...: [REDACTED]UNIT.....: 5.112  
DOB (AGE): [REDACTED] (49)  
ETHNIC...: OTHER THAN HISP  
RSP OF...: LEW A-DES

## \*\*\*\*\* I N M A T E I N T E R V I E W \*\*\*\*\*

DATE &amp; TIME ARRIVED: 10-05-2015 14:30

TIME INTERVIEWED: 1620

- 1) DO YOU KNOW OF ANY REASON THAT YOU SHOULD NOT BE PLACED IN GENERAL POPULATION ? YES \_\_\_ NO ☒
- 2) HAVE YOU ASSISTED LAW ENFORCEMENT AGENTS IN ANY WAY ? YES \_\_\_ NO ☒
- 3) ARE YOU A CIM CASE ? YES ☒ NO \_\_\_
- 4) HAVE YOU TESTIFIED AGAINST ANYONE IN COURT ? YES \_\_\_ NO ☒
- 5) ARE YOU A MEMBER/ASSOCIATE OF ANY GANG ? YES \_\_\_ NO ☒
- 6A) HAVE YOU EVER BEEN SEXUALLY ASSAULTED ? YES \_\_\_ NO ☒
- 6B) HAVE YOU RECENTLY BEEN SEXUALLY ASSAULTED ? YES \_\_\_ NO ☒

INTERVIEWER COMMENTS: \_\_\_\_\_

## CIRCLE ONE:

1 HAVE / HAVE NOT RECEIVED A BUREAU OF PRISON "ADMISSIONS & ORIENTATION BOOKLET" DEFINING MY "RIGHTS & RESPONSIBILITIES" AND THE "PROHIBITED ACTS AND DISCIPLINARY SEVERITY SCALE".

INMATE SIGNATURE: [Signature]

DATE: 10-5-15

INTERVIEWER: DILTZ [Signature]

TITLE: CC

DATE: 10-05-2015

## \*\*\*\*\* S T A F F C H E C K L I S T \*\*\*\*\*

PSI REVIEWED.....: YES ☒ NO \_\_\_

CENTRAL FILE REVIEWED.....: YES ☒ NO \_\_\_

IS THERE A HISTORY OF SEXUALLY AGGRESSIVE BEHAVIOR? YES \_\_\_ NO ☒

COMMENTS: \_\_\_\_\_

IF GENERAL PHYSICAL APPEARANCE IS NOT GOOD, EXPLAIN: \_\_\_\_\_

PSYCH ALERT (YES/NO).....: (NO)

(IF YES, DO NOT RELEASE TO GENERAL POPULATION, NOTIFY PSYCHOLOGY)

OK FOR GENERAL POPULATION: YES \_\_\_ NO ☒

(IF NO, EXPLAIN)

snow comment

I'm self identified as straight.

No apparent  
PREA criteria met

ALMG2 531.01 \*  
PAGE 001 \*

INMATE HISTORY  
QUARTERS

\* 09-05-2  
\* 10:29:1

DEFENDANT  
EXHIBIT

Attach. 6

REG NO.: 47208-066 NAME....: LEATH, JAMES  
CATEGORY: QTR FUNCTION: PRT FORMAT:

FCL	ASSIGNMENT	DESCRIPTION	START DATE/TIME	STOP DATE/TIME
COP	F01-122U	HOUSE F/RANGE 01/BED 122U	08-24-2017 1919	CURRENT
COP	R01-101L	HOUSE R/RANGE 01/BED 101L	08-24-2017 1306	08-24-2017 1919
ATL	J04-406L	HOUSE J/RANGE 04/BED 406L	08-17-2017 2123	08-24-2017 0530
ATL	R01-001L	HOUSE R/RANGE 01/BED 001L	08-17-2017 1753	08-17-2017 2123
ATL	R01-001L	HOUSE R/RANGE 01/BED 001L	08-17-2017 1018	08-17-2017 1032
BSY	Z02-119LAD	HOUSE Z/RANGE 02/BED 119L AD	08-06-2017 2113	08-17-2017 0907
BSY	Z02-120LAD	HOUSE Z/RANGE 02/BED 120L AD	08-04-2017 1409	08-06-2017 2113
BSY	Z02-146UAD	HOUSE Z/RANGE 02/BED 146U AD	07-29-2017 2127	08-04-2017 1409
BSY	Z01-102LAD	HOUSE Z/RANGE 01/BED 102L AD	07-29-2017 1259	07-29-2017 2127
BSY	Z02-148LAD	HOUSE Z/RANGE 02/BED 148L AD	07-17-2017 2037	07-29-2017 1259
BSY	Z02-147LAD	HOUSE Z/RANGE 02/BED 147L AD	07-13-2017 1622	07-17-2017 2037
BSY	Z02-130LAD	HOUSE Z/RANGE 02/BED 130L AD	06-28-2017 2120	07-13-2017 1622
BSY	Z02-129LAD	HOUSE Z/RANGE 02/BED 129L AD	06-26-2017 1341	06-28-2017 2120
BSY	Z01-117LAD	HOUSE Z/RANGE 01/BED 117L AD	06-26-2017 1324	06-26-2017 1341
BSY	B07-320U	HOUSE B/RANGE 07/BED 320U	05-25-2017 1328	06-26-2017 1324
BSY	B07-320U	HOUSE B/RANGE 07/BED 320U	04-07-2017 1148	05-25-2017 1010
BSY	B07-320U	HOUSE B/RANGE 07/BED 320U	03-27-2017 1341	04-07-2017 0737
BSY	B07-307U	HOUSE B/RANGE 07/BED 307U	03-08-2017 0841	03-27-2017 1341
BSY	B07-306L	HOUSE B/RANGE 07/BED 306L	03-07-2017 1411	03-08-2017 0841
BSY	B07-319U	HOUSE B/RANGE 07/BED 319U	03-01-2017 1856	03-07-2017 1411
BSY	R01-001L	HOUSE R/RANGE 01/BED 001L	03-01-2017 1337	03-01-2017 1856
ATL	J04-450U	HOUSE J/RANGE 04/BED 450U	02-08-2017 1947	03-01-2017 0600
ATL	R01-001L	HOUSE R/RANGE 01/BED 001L	02-08-2017 1300	02-08-2017 1947
ATL	R01-001L	HOUSE R/RANGE 01/BED 001L	02-08-2017 0941	02-08-2017 1018
OKL	C11-306L	HOUSE C/RANGE 11/BED 306L	01-30-2017 1911	02-08-2017 0730
OKL	C11-901L	HOUSE C/RANGE 11/BED 901L	01-30-2017 1645	01-30-2017 1911
ALP	Z01-113UAD	HOUSE Z/RANGE 01/BED 113U AD	01-15-2017 0848	01-30-2017 0518
ALP	Z01-110UAD	HOUSE Z/RANGE 01/BED 110U AD	12-25-2016 0841	01-15-2017 0848
ALP	Z01-109UAD	HOUSE Z/RANGE 01/BED 109U AD	12-04-2016 0832	12-25-2016 0841
ALP	Z01-107UAD	HOUSE Z/RANGE 01/BED 107U AD	11-29-2016 1332	12-04-2016 0832
ALP	Z01-101LAD	HOUSE Z/RANGE 01/BED 101L AD	11-29-2016 1241	11-29-2016 1332
ALP	A03-115L	HOUSE A/RANGE 03/BED 115L	09-16-2016 1507	11-29-2016 1241
ALP	A03-115L	HOUSE A/RANGE 03/BED 115L	07-20-2016 1314	09-16-2016 1201
ALP	R01-001L	HOUSE R/RANGE 01/BED 001L	07-20-2016 1150	07-20-2016 1314
LEW	X03-228L	HOUSE X/RANGE 03/BED 228L	07-15-2016 1122	07-20-2016 1115
LEW	X03-228L	HOUSE X/RANGE 03/BED 228L	07-02-2016 0821	07-15-2016 0802
LEW	X03-229L	HOUSE X/RANGE 03/BED 229L	06-28-2016 1206	07-02-2016 0821
LEW	X03-229L	HOUSE X/RANGE 03/BED 229L	06-11-2016 1010	06-28-2016 0906
LEW	X03-228L	HOUSE X/RANGE 03/BED 228L	06-01-2016 1812	06-11-2016 1010
LEW	J03-316L	HOUSE J/RANGE 03/BED 316L	05-15-2016 0901	05-30-2016 2227
LEW	J03-315L	HOUSE J/RANGE 03/BED 315L	04-24-2016 0736	05-15-2016 0901

G0002 MORE PAGES TO FOLLOW . . .

ALMG2 531.01 \* INMATE HISTORY \* 09-05-2017  
 PAGE 001 \* QUARTERS \* 10:31:46

REG NO.: [REDACTED] NAME: [REDACTED]  
 CATEGORY: QTR FUNCTION: PRT FORMAT:

FCL	ASSIGNMENT	DESCRIPTION	START DATE/TIME	STOP DATE/TIME
MCR	Z05-232LAD	HOUSE Z/RANGE 05/BED 232L AD	08-22-2017 1200	CURRENT
MCR	Z05-233LAD	HOUSE Z/RANGE 05/BED 233L AD	08-01-2017 1051	08-22-2017 1200
MCR	Z05-234LAD	HOUSE Z/RANGE 05/BED 234L AD	07-11-2017 1305	08-01-2017 1051
MCR	Z05-235LAD	HOUSE Z/RANGE 05/BED 235L AD	07-02-2017 2156	07-11-2017 1305
MCR	Z01-101LAD	HOUSE Z/RANGE 01/BED 101L AD	07-02-2017 2047	07-02-2017 2156
MCR	E02-202L	HOUSE E/RANGE 02/BED 202L	05-30-2017 1031	07-02-2017 2047
MCR	E01-105L	HOUSE E/RANGE 01/BED 105L	05-30-2017 1022	05-30-2017 1031
MCR	E01-113U	HOUSE E/RANGE 01/BED 113U	05-02-2017 0646	05-30-2017 1022
MCR	E01-109U	HOUSE E/RANGE 01/BED 109U	04-24-2017 1006	05-02-2017 0646
MCR	E01-123U	HOUSE E/RANGE 01/BED 123U	04-20-2017 2006	04-24-2017 1006
MCR	R01-001L	HOUSE R/RANGE 01/BED 001L	04-20-2017 1734	04-20-2017 2006
OKL	C08-411U	HOUSE C/RANGE 08/BED 411U	04-13-2017 1436	04-20-2017 0900
OKL	C08-422U	HOUSE C/RANGE 08/BED 422U	04-04-2017 0747	04-13-2017 1436
OKL	C08-417L	HOUSE C/RANGE 08/BED 417L	04-04-2017 0055	04-04-2017 0747
OKL	C07-901L	HOUSE C/RANGE 07/BED 901L	04-03-2017 1821	04-04-2017 0055
LEW	I02-212L	HOUSE I/RANGE 02/BED 212L	03-29-2017 0652	04-03-2017 0709
LEW	E02-212U	HOUSE E/RANGE 02/BED 212U	03-26-2017 0731	03-29-2017 0652
LEW	E02-211L	HOUSE E/RANGE 02/BED 211L	03-05-2017 0654	03-26-2017 0731
LEW	E02-210L	HOUSE E/RANGE 02/BED 210L	02-12-2017 0854	03-05-2017 0654
LEW	E02-209L	HOUSE E/RANGE 02/BED 209L	01-22-2017 0855	02-12-2017 0854
LEW	E02-208L	HOUSE E/RANGE 02/BED 208L	01-17-2017 0823	01-22-2017 0855
LEW	J02-223L	HOUSE J/RANGE 02/BED 223L	01-15-2017 0827	01-17-2017 0823
LEW	J02-222L	HOUSE J/RANGE 02/BED 222L	12-25-2016 0832	01-15-2017 0827
LEW	J02-221L	HOUSE J/RANGE 02/BED 221L	12-05-2016 1044	12-25-2016 0832
LEW	J02-220U	HOUSE J/RANGE 02/BED 220U	11-23-2016 1112	12-05-2016 1044
LEW	G02-223U	HOUSE G/RANGE 02/BED 223U	11-06-2016 0732	11-23-2016 1112
LEW	G02-220U	HOUSE G/RANGE 02/BED 220U	10-16-2016 0947	11-06-2016 0732
LEW	G02-219U	HOUSE G/RANGE 02/BED 219U	09-25-2016 0721	10-16-2016 0947
LEW	G02-218U	HOUSE G/RANGE 02/BED 218U	09-25-2016 0707	09-25-2016 0721
LEW	G02-211U	HOUSE G/RANGE 02/BED 211U	09-04-2016 0841	09-25-2016 0707
LEW	G02-202U	HOUSE G/RANGE 02/BED 202U	08-14-2016 0929	09-04-2016 0841
LEW	G02-224U	HOUSE G/RANGE 02/BED 224U	07-24-2016 0859	08-14-2016 0929
LEW	G02-223U	HOUSE G/RANGE 02/BED 223U	07-23-2016 1035	07-24-2016 0859
LEW	J03-319U	HOUSE J/RANGE 03/BED 319U	07-17-2016 0641	07-23-2016 1035
LEW	J03-318U	HOUSE J/RANGE 03/BED 318U	06-30-2016 1505	07-17-2016 0641
LEW	J03-318U	HOUSE J/RANGE 03/BED 318U	06-26-2016 0652	06-30-2016 1245
LEW	J03-317U	HOUSE J/RANGE 03/BED 317U	06-05-2016 0904	06-26-2016 0652
LEW	J03-316U	HOUSE J/RANGE 03/BED 316U	05-31-2016 2123	06-05-2016 0904
LEW	J03-316U	HOUSE J/RANGE 03/BED 316U	05-15-2016 0901	05-30-2016 2257
LEW	J03-315U	HOUSE J/RANGE 03/BED 315U	04-24-2016 0736	05-15-2016 0901
LEW	J03-314U	HOUSE J/RANGE 03/BED 314U	04-03-2016 0834	04-24-2016 0736

G0002 MORE PAGES TO FOLLOW . . .



BOYDBP-S288.052 INCIDENT REPORT CDFR-  
MAY 1994  
U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

DEFENDANT  
EXHIBIT

Attach. 7

1. Name Of Institution: U.S.P. Lewisburg

## PART I - INCIDENT REPORT #2856472

2. Name Of Inmate Leath, James	3. Register Number 47208-066	4. Date Of Incident 5/30/2016	5. Time 9:08 pm
6. Place Of Incident J-Block cell 316	7. Assignment N/A	8. Unit J-Block, Dressler	
9. Incident: Fighting with another person			10. Code: 201

11. Description of incident: Date: 5/30/16 Time: 9:08 pm Staff became aware of Incident.

On May 30<sup>th</sup>, 2016, at approximately 9:08 pm, I was notified via radio to report to J-Block 3<sup>rd</sup> floor due to inmate [REDACTED] and Leath, James #47208-066 having injuries consistent with being in a physical altercation in J-Block cell 316. Specifically, the J-Block #3 Officer approached cell 316 as he was making irregular rounds and noticed both inmates being covered in blood. Upon my arrival, inmates [REDACTED] and Leath submitted to hand restraints. Both inmates were removed from the cell and escorted by other staff members to the Urgent Care Rooms in the Health Services area to be further evaluated. Based on inmate Leath injuries, it was determined that inmate [REDACTED] and inmate Leath were involved in a physical altercation which was not witnessed by staff. Both inmate [REDACTED] and Leath sustained multiple injuries which required outside medical treatment.

12. Signature Of Reporting <i>J. Leonowicz</i>	Date And Time 5/30/16 11:01 pm	13. Name And Title (Printed) J. Leonowicz, Lieutenant
14. Incident Report Delivered To Above Inmate By <i>L. Bodekgrah</i>	15. Date Incident Report Delivered- 6-3-16	16. Time Incident Report Delivered 7:50 AM

## Part II - COMMITTEE ACTION

17. Comments Of The Inmate To The Unit Discipline Committee Regarding The Above Incident:

See Attached

18. A. It Is The Finding Of The Committee That You: ____ Committed The Following Prohibited Act. ____ Did Not Commit A Prohibited Act.	B. <input checked="" type="checkbox"/> The Committee Is Referring The Charge(s) To The DHO For Further Hearing. C. ____ The Committee Advised The Inmate Of Its Finding And Of The Right To File An Appeal Within 15 Calendar Days.
--	--

19. Committee Decision Is Based On The Following Information

See Attached

20. Committee action and/or recommendation if referred to DHO (Contingent upon DHO finding inmate committed prohibited act)

See Attached

21. Date And Time Of Action 6-3-16 12:10r (The UDC Chairman's Signature Next To His Name Certifies Who Sat On The UDC And That The Completed Report Accurately Reflects The UDC Proceedings.)

Chairman (Typed Name/signature)

Member (Typed Name)

Member (Typed Name)

Record Copy - Central File Record; Copy - DHO; Copy - Inmate After UDC Action; Copy - Inmate Within 24 Hours Of Part I Preparation

DEFENDANT  
EXHIBIT

Attach. 8

Bureau of Prisons  
Health Services  
Consultation Request

Inmate Name: LEATH, JAMES Reg #: 47208-066 Complex: LEW  
 Date of Birth: [REDACTED] Sex: M

Report of Consultation: Ophthalmology Subtype: Ophthalmology - Outside  
 Inmate Name: LEATH, JAMES Reg #: 47208-066  
 Date of Birth: [REDACTED] Sex: M  
 Institution: LEWISBURG USP  
 2400 ROBERT F. MILLER DRIVE  
 LEWISBURG, Pennsylvania 17837  
 5705231251

## Assessment:

VA - CFC @ 4+1  
 NLP  
 IOP - 16  
 10  
 - still w/ progression.

① Presumed Traumatic Optic neuropathy, Right eye  
 - Guarded Prognosis.

② S/P ruptured Globe, left eye  
 - will not see again, NO surgeries planned

DVE - clear view, no actual  
 Retinal detachment  
 w/ vitreous hemorrhage

## Plan:

① Drops  
 - stop Timolol Both eyes  
 - Continue Brimonidine BID, Right eye only  
 - Continue Latanoprost ophthalmic ointment 4x per day, Left eye only  
 - Start Atropine 1 drop left eye daily only.

Signature  
Date

James Koren, MD  
 6-28-16

Completed By:

Report may be hand-written or (preferably) typed on this form. If dictated on office or hospital letterhead to follow, please indicate essential findings or recommendations to be acted upon pending final report.

Follow-up services and primary responsibility for inmate health care remains with Bureau of Prisons staff. While discussion of diagnostic/treatment options with the inmate may be appropriate, they are subject to review by the inmate's primary care provider, the institution utilization review committee and/or the BOP National Formulary.

Please notify institution prior to scheduling surgery dates or follow-up appointments.

Inmate not to be informed of appointment dates.

**Bureau of Prisons  
Health Services  
Clinical Encounter**

Inmate Name: LEATH, JAMES  
Date of Birth: [REDACTED]  
Encounter Date: 06/03/2016 15:44

Sex: M Race: BLACK  
Provider: Edinger, Andrew MD

Reg #: 47208-066  
Facility: LEW  
Unit: X03

Physician - Follow up Visit encounter performed at Health Services.

**SUBJECTIVE:**

**COMPLAINT 1**      **Provider:** Edinger, Andrew MD

**Chief Complaint:** Eyes/Vision Problems

**Subjective:** Inmate was brought to health services to undergo an eye drop administration training. He requires 3 different eye drops at present. He has minimal vision OD and no vision OS. I discussed his poor prognosis with him and stressed the importance that he learn to self administer eye drops. He was initially very resistive. He attempted to use the encounter to draw sympathy regarding his desire for a phone call. He also tried to divert attention into getting a medical transfer. When I told him that this was not an opportunity for negotiation, he then became more compliant and proceeded with the training. I carefully walked him through the process of self administering drops. He would require the use of both hands to perform this. He was able to administer the drops with reasonable accuracy. Because he could not see, he brought the bottles to contact with his eye and then placed the drops in his eyes. He successfully placed Atropine in his left eye and Timolol and Brimonidine in his right eye. He was subsequently given the remainder of his pill line medication and returned to his cell.

**Pain:** Yes

**Pain Assessment**

**Date:** 06/03/2016 10:01  
**Location:** Eyes-bilateral  
**Quality of Pain:** Tender  
**Pain Scale:** Refused  
**Intervention:** See chart  
**Trauma Date/Year:**  
**Injury:**  
**Mechanism:**  
**Onset:** 3-5 Days  
**Duration:** 3-5 Days  
**Exacerbating Factors:** IM refused to elaborate  
**Relieving Factors:** IM refused to elaborate  
**Comments:**

**OBJECTIVE:**

**ASSESSMENT:**

Unspecified disorder of globe, H449 - Current

**PLAN:**

**Disposition:**

Follow-up at Sick Call as Needed

**Patient Education Topics:**

<u>Date Initiated</u>	<u>Format</u>	<u>Handout/Topic</u>	<u>Provider</u>	<u>Outcome</u>
-----------------------	---------------	----------------------	-----------------	----------------

Inmate Name: LEATH, JAMES  
Date of Birth: [REDACTED]  
Encounter Date: 06/03/2016 15:44

Sex: M Race: BLACK  
Provider: Edinger, Andrew MD

Reg #: 47208-066  
Facility: LEW  
Unit: X03

<u>Date Initiated</u>	<u>Format</u>	<u>Handout/Topic</u>	<u>Provider</u>	<u>Outcome</u>
06/03/2016	Counseling	Compliance - Treatment	Edinger, Andrew	Verbalizes Understanding

Copay Required: No

Cosign Required: No

Telephone/Verbal Order: No

Completed by Edinger, Andrew MD on 06/03/2016 15:53

**Bureau of Prisons  
Health Services  
Clinical Encounter**

Inmate Name: LEATH, JAMES  
Date of Birth: [REDACTED]  
Encounter Date: 06/01/2016 18:49

Sex: M Race: BLACK  
Provider: Schoonover, Amy J RN

Reg #: 47208-066  
Facility: LEW  
Unit: X03

Nursing - Medical Trip Return encounter performed at Special Housing Unit.

**SUBJECTIVE:**

**COMPLAINT 1**      **Provider:** Schoonover, Amy J RN  
**Chief Complaint:** Eyes/Vision Problems  
**Subjective:** Return from OSH s/p multiple traumatic injuries  
**Pain:** No

**OBJECTIVE:**

**Exam:**

**General**

**Affect**

Yes: Cooperative

**Appearance**

Yes: Alert and Oriented x 3

**Ears**

**External Ear**

Yes: Trauma

**Face**

**General**

Yes: Periorbital Edema

**ASSESSMENT:**

Eye Abrasion or Contusion

I/M returned from OSH, where he was treated for multiple traumatic injuries, including, bilateral ruptured globe fractures, bilateral intra/extra conal hemorrhage, left medial orbital wall fracture, tiny left sided apical pneumothorax, medial right lower lobe pneumothorax, bilateral pulmonary contusions, right non-displaced rib fx 9-11. I/M was taken to the OR, where he underwent repair of scleral laceration OS, exploration and repair of complex conjunctival laceration OD and repair of complex eyelid laceration left upper lid by Plastic surgery, Ophthalmology and OMFS.

Per D/C instructions, recommend F/U with USP Psych regarding his poor vision prognosis and Dental regarding discomfort he is experiencing in his teeth post-op.

No strenuous activity for 8 weeks. Will update MDS.

Several eye drops and ointments have been prescribed. Spoke with Dr. Pigos, he will place orders for them. Will order Augmentin, per D/C instructions. Will also order Tylenol #3 for pain control.

See orders for follow up appointments needed.

**PLAN:**

**New Medication Orders:**

<u>Rx#</u>	<u>Medication</u>	<u>Order Date</u>	<u>Prescriber Order</u>
------------	-------------------	-------------------	-------------------------

Inmate Name: LEATH, JAMES	Sex: M	Race: BLACK	Reg #: 47208-066
Date of Birth: [REDACTED]	Provider: Schoonover, Amy J RN	Facility: LEW	Unit: X03
Encounter Date: 06/01/2016 18:49			

**New Medication Orders:**

<u>Rx#</u>	<u>Medication</u>	<u>Order Date</u>	<u>Prescriber Order</u>
	Acetaminophen/Codeine 300/30 MG Tablets	06/01/2016 18:49	2 tabs Orally - Two Times a Day x 3 day(s) Pill Line Only
<b>Start Now: Yes</b> <b>Night Stock Rx#:</b> <b>Source: Pyxis</b> <b>Admin Method: Pill Line</b> <b>Stop Date: 06/04/2016 18:48</b> <b>MAR Label: 2 tabs Orally - Two Times a Day x 3 day(s) Pill Line Only</b> <b>One Time Dose Given: No</b>			
	Amoxicillin/Clav Tablet	06/01/2016 18:49	875/125 mg take 1 tab Orally - Two Times a Day x 4 day(s)
<b>Start Now: Yes</b> <b>Night Stock Rx#:</b> <b>Source: Pyxis</b> <b>Admin Method: Self Administration</b> <b>Stop Date: 06/05/2016 18:48</b> <b>MAR Label: 875/125 mg take 1 tab Orally - Two Times a Day x 4 day(s)</b> <b>One Time Dose Given: No</b>			

**New Radiology Request Orders:**

<u>Details</u>	<u>Frequency</u>	<u>End Date</u>	<u>Due Date</u>	<u>Priority</u>
General Radiology-Chest-2 Views	One Time		06/01/2016	Routine
<b>Specific reason(s) for request (Complaints and findings):</b>				
Repeat chest x-ray to evaluate rib fractures. Need prior to 2 week follow up with Trauma clinic.				

**New Consultation Requests:**

<u>Consultation/Procedure</u>	<u>Target Date</u>	<u>Scheduled Target Date</u>	<u>Priority</u>	<u>Translator</u>	<u>Language</u>
Ophthalmology	06/01/2016	06/01/2016	Routine	No	
<b>Subtype:</b>					
Ophthalmology - Outside					
<b>Reason for Request:</b>					
One week follow up s/p repair of scleral laceration OS and exploration and repair of complex conjunctival laceration OD. Needs appointment on a day that the Retina Specialist is available.					

**Disposition:**

Follow-up at Sick Call as Needed  
 Return Immediately if Condition Worsens  
 Discharged to Housing Unit with Restrictions

**Patient Education Topics:**

<u>Date Initiated</u>	<u>Format</u>	<u>Handout/Topic</u>	<u>Provider</u>	<u>Outcome</u>
06/01/2016	Counseling	Access to Care	Schoonover, Amy	Verbalizes Understanding

Inmate Name: LEATH, JAMES  
Date of Birth: [REDACTED]  
Encounter Date: 06/01/2016 18:49

Sex: M Race: BLACK  
Provider: Schoonover, Amy J RN

Reg #: 47208-066  
Facility: LEW  
Unit: X03

**Copay Required:** No

**Cosign Required:** Yes

**Telephone/Verbal Order:** Yes **By:** Pigos, Kevin MD/Clinical Director

**Telephone or Verbal order read back and verified.**

Completed by Schoonover, Amy J RN on 06/01/2016 19:24

Requested to be cosigned by Pigos, Kevin MD/Clinical Director.

Cosign documentation will be displayed on the following page.

**Bureau of Prisons  
Health Services  
Cosign/Review**

Inmate Name:	LEATH, JAMES	Reg #:	47208-066
Date of Birth:	██████████	Sex:	M
Encounter Date:	06/01/2016 18:49	Provider:	Schoonover, Amy J RN
		Race:	BLACK
		Facility:	LEW

**Cosigned with New Encounter Note by Pigos, Kevin MD/Clinical Director on 06/02/2016 11:49.  
Screenings have been acknowledged.**

Bureau of Prisons - LEW



Leath, James (MR # [REDACTED])

DOB: [REDACTED]

USP Lewisburg

47208-066

## Patient Information

Patient Name	MRN	Gender	DOB (Age)
Leath, James	[REDACTED]	Male	[REDACTED] 50 year old

Max Alan Ubbens, CRNP	Certified Registered Nurse Practitioner	Signed	Trauma Surgery (GMCTRS)	Discharge Instructions	06/01/16 1006
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

**DISCHARGE INSTRUCTIONS**  
**GMC-GEISINGER MEDICAL CENTER**  
 100 North Academy Ave  
 Danville PA 17822

**Patient Name:** James Leath  
**Discharge Date:** 6/1/16

**MRN:** [REDACTED]

**You may call the Department of Trauma Surgery at 570-271-7149 for questions or test results. For after-hours emergencies call 570-271-6211 and have your doctor paged.**

The information below provides you with the instructions and the list of medications you need to be taking following discharge from the hospital. If you have any questions, please ask before leaving. Please carry this letter with you when you see your doctor in the clinic. If you have questions, you can reach us at the numbers above.

**Brief summary of your inpatient care:** Mr. Leath was admitted on 5/30/16 after suffering from multiple traumatic injuries. Injuries included

- Bilateral ruptured globe fractures
- Bilateral intra/extra conal hemorrhage
- Left medial orbital wall fracture
- Tiny left sided apical pneumothorax
- Medial right lower lobe pneumothorax
- Bilateral pulmonary contusions
- Right non-displaced rib fx 9-11

Mr. Leath was taken to the operating room where the following procedures were performed by Plastic surgery, Ophthalmology, and OMFS.

- Repair of scleral laceration OS
- Exploration and repair of complex conjunctival laceration OD
- Repair of complex eyelid laceration left upper lid

It is recommended Mr. Leath follow-up with the psych program at the prison regarding his poor vision prognosis and the dental department regarding some discomfort he is experiencing in his teeth post-operatively. Since narcotics are limited at the prison, Tylenol #3 as directed by Prison health can be used for pain mgmt. He will need one week follow-up with ophthalmology on a day that the retina specialist is available. He will need a two week follow-up in trauma clinic with a repeat chest x-ray to evaluate his rib fractures.

Printed 6/1/16 3:58 PM

Geisinger

Page 1 of 5

Leath, James (MR # [REDACTED])

DOB: [REDACTED]

**Future Geisinger Appointments**

Date	Time	Provider	Department
6/27/2016	10:00 AM	Dana L Rubin, PA-C	Plastic Surgery, Danville

There are no future non-Geisinger appointments scheduled at this time.

**Special Instructions:****Wound Care Instructions for the Plastic Surgery Patient**

1. While the stitches are still in place, keep the wound clean by washing with a liquid antibacterial soap (Dial, Safeguard, etc.). Should this be irritating to the skin, Dove soap can be used.
2. After washing the suture line(s), apply an antibiotic ointment (Bacitracin or Polysporin). Any of these ointments can cause irritation with prolonged use, so use them sparingly. Discontinue use when all areas have healed or when advised by your doctor.
3. All sutures are dissolvable and will take a couple weeks to completely dissolve.
4. Once the wound is healed, begin moisturizing the scar with Vitamin E oil, Cocoa Butter, or other doctor-recommended product to help soften the scar. This is massaged into the the scar twice daily for up to one year following your surgery.
5. If the scar is in an area exposed to sun (or tanning booth), protect it by applying a #15 or greater sun protection factor sunscreen for one full year following your surgery. A sunburn could potentially cause freckling or brown pigmentation of the scar.
6. If a rash or redness develops after the application of an ointment, moisturizer, or sunscreen product, stop using it. You could possibly be allergic to the product. If severe itching or a rash develops, please call our office.
7. If you have any questions about the appearance of your wound or need to review the information provided on this page, do not hesitate to contact us.  
Our daytime office Monday - Friday: 570-271-6335.  
Evenings/weekends: 570-271-6211 and ask for Plastic Surgery.

**Do not smoke or use tobacco products in any way!**

**Medications:****Current Discharge Medication List****START taking these medications**

	Details
✓ <b>brimonidine tartrate (ALPHAGAN) 0.2 % ophthalmic solution</b>	Instill 1 Drop into the right eye 2 times a day.
✓ <b>erythromycin 5 MG/GM ophthalmic ointment</b>	Instill into the left eye 4 times a day. Apply to the laceration of the left eyebrow

Printed 6/1/16 3:58 PM

Geisinger

Page 3 of 5

Leath, James (MR # [REDACTED])

DOB: [REDACTED]

✓ timolol (TIMOPTIC) 0.25 %  
ophthalmic solution

Instill 1 Drop into the right eye 2 times a day.

neomycin-polymyxin-dexameth  
(MAXITROL) 0.1 % ophthalmic  
ointment

Instill into the right eye 4 times a day.

neomycin-polymyxin-dexameth  
(MAXITROL) 0.1 % ophthalmic  
ointment

Instill into the left eye every 2 hours.

atropine sulfate 1 % OINT

Instill into the left eye 2 times a day.

acetaminophen 650 MG Tablet

Take 1 Tab by mouth every 6 hours as needed for Pain.

✓ bacitracin zinc 500 UNIT/GM  
ointment

Apply topically to affected area 2 times a day. Apply to finger abrasions

docusate sodium 100 MG CAPS

Take 1 Cap by mouth every 12 hours.

senna (SENOKOT) Tablet

Take 2 Tabs by mouth every 12 hours.

amoxicillin-clavulanate  
(AUGMENTIN) 500-125 MG per  
tablet

Take 1 Tab by mouth 3 times a day for 4 days.

875/125 mg

**STOP taking these medications**

NO KNOWN MEDICATIONS

If you feel suicidal or homicidal, please call the crisis hotline at 1-800-273-TALK (8255).

**Discharge Checklist:**

- \_\_\_\_\_ I have my prescriptions.
- \_\_\_\_\_ I was given medication instructions (if applicable).
- \_\_\_\_\_ I have all of my personal belongings.
- \_\_\_\_\_ I have my medications I brought from home (if applicable).

To understand how well we have prepared you (the Patient or Caregiver) for your discharge, can you answer the following teach-back questions?

1. \_\_\_\_\_ Why was I in the hospital?

Printed 6/1/16 3:58 PM

Geisinger

Page 4 of 5

Leath, James (MR # [REDACTED])

DOB: [REDACTED]

2. \_\_\_\_\_ What do I need to do to care for myself after discharge? (Example: diet, activity, follow up appointments, medications, when to call the doctor, etc.)
3. \_\_\_\_\_ Why is this important to my health?

**Acknowledgement:** I have had these instructions explained to me, was given a copy and had a chance to ask questions.

Patient Signature \_\_\_\_\_

Date &amp; Time: \_\_\_\_\_

Nurse Signature \_\_\_\_\_

Date &amp; Time: \_\_\_\_\_

**If the patient is unable to sign:**

Responsible Adult \_\_\_\_\_

Date &amp; Time: \_\_\_\_\_

Relationship to Patient \_\_\_\_\_

**\* PLEASE TAKE THIS FORM TO YOUR NEXT VISIT WITH YOUR PRIMARY CARE PHYSICIAN.**

**Have You Signed Up for MyGeisinger.org?**

To access portions of your medical record and to communicate with your Geisinger physicians electronically, logon to [www.mygeisinger.org](http://www.mygeisinger.org), your online health management tool.

Mark Alan Ubbens, CRNP  
 Certified Registered Nurse Practitioner  
 GMC-GEISINGER MEDICAL CENTER  
 06/01/16 1550

**Revision History**

**Chart Review Routing History**

No Routing History on File

**Bureau of Prisons  
Health Services  
Cosign/Review**

Inmate Name:	LEATH, JAMES	Reg #:	47208-066
Date of Birth:	[REDACTED]	Sex:	M
Scanned Date:	06/02/2016 07:25 EST	Race:	BLACK
		Facility:	LEW

Reviewed by Pigos, Kevin MD/Clinical Director on 06/02/2016 12:18.

Bureau of Prisons - LEW

**Bureau of Prisons  
Health Services  
Clinical Encounter**

Inmate Name: LEATH, JAMES	Sex: M Race: BLACK	Reg #: 47208-066
Date of Birth: [REDACTED]	Provider: Dees, S. NREMT-P	Facility: LEW
Encounter Date: 05/30/2016 21:08		Unit: J03

Injury Assessment - Non-work related encounter performed at Health Services.

**SUBJECTIVE:**

**INJURY 1**      **Provider:** Dees, S. NREMT-P

**Date of Injury:** 05/30/2016 20:30      **Date Reported for Treatment:** 05/30/2016 21:08

**Work Related:** No      **Work Assignment:** UNASSG

**Pain Location:**

**Pain Scale:** Refused

**Pain Qualities:**

**Where Did Injury Happen (Be specific as to location):**

J-Block Cell 316

**Cause of Injury (Inmate's Statement of how injury occurred):**

IM involved in an unwitnessed cell fight

**Symptoms (as reported by inmate):**

"I can't see!"

**OBJECTIVE:**

**Pulse:**

<u>Date</u>	<u>Time</u>	<u>Rate Per Minute</u>	<u>Location</u>	<u>Rhythm</u>	<u>Provider</u>
05/30/2016	22:12 LEW	73	Via Machine	Regular	Dees, S. NREMT-P
05/30/2016	22:01 LEW	75	Via Machine	Regular	Dees, S. NREMT-P
05/30/2016	21:51 LEW	82	Via Machine	Regular	Dees, S. NREMT-P
05/30/2016	21:43 LEW	89	Via Machine	Regular	Dees, S. NREMT-P
05/30/2016	21:33 LEW	71	Via Machine	Regular	Dees, S. NREMT-P
05/30/2016	21:23 LEW	82	Via Machine	Regular	Dees, S. NREMT-P

**Respirations:**

<u>Date</u>	<u>Time</u>	<u>Rate Per Minute</u>	<u>Provider</u>
05/30/2016	22:12 LEW	16	Dees, S. NREMT-P
05/30/2016	22:01 LEW	16	Dees, S. NREMT-P
05/30/2016	21:51 LEW	16	Dees, S. NREMT-P
05/30/2016	21:43 LEW	16	Dees, S. NREMT-P
05/30/2016	21:33 LEW	16	Dees, S. NREMT-P
05/30/2016	21:23 LEW	16	Dees, S. NREMT-P

**Blood Pressure:**

<u>Date</u>	<u>Time</u>	<u>Value</u>	<u>Location</u>	<u>Position</u>	<u>Cuff Size</u>	<u>Provider</u>
05/30/2016	22:12 LEW	138/75	Right Arm	Lying		Dees, S. NREMT-P
05/30/2016	22:01 LEW	136/73	Right Arm	Lying		Dees, S. NREMT-P
05/30/2016	21:51 LEW	128/72	Right Arm	Lying		Dees, S. NREMT-P
05/30/2016	21:43 LEW	106/62	Right Arm	Lying		Dees, S. NREMT-P
05/30/2016	21:33 LEW	106/58	Right Arm	Lying		Dees, S. NREMT-P

Inmate Name: LEATH, JAMES  
 Date of Birth: [REDACTED]  
 Encounter Date: 05/30/2016 21:08  
 Sex: M Race: BLACK  
 Provider: Dees, S. NREMT-P  
 Reg #: 47208-066  
 Facility: LEW  
 Unit: J03

Date	Time	Value	Location	Position	Cuff Size	Provider
05/30/2016	21:23	LEW	101/66	Right Arm	Sitting	Dees, S. NREMT-P

**Exam:****General****Affect**

Yes: Irritable  
 No: Cooperative

**Appearance**

Yes: Appears Distressed, Alert and Oriented x 3

**Eyes****Periorbital/Orbital/Lids**

Yes: Deformity, Edema/Swelling, Periorbital Edema, Swelling, Tenderness to Palpation, Trauma, Laceration(s)

**Ears****External Ear**

Yes: Tenderness to Palpation, Trauma

**Face****General**

Yes: Swelling, Periorbital Edema, Tenderness, Trauma, Laceration  
 No: Deformity

**Sinus/Maxilla**

Yes: Non-Tender to Palpation

**Musculoskeletal****Wrist/Hand/Fingers**

Yes: Tenderness, Trauma

**Comments**

IM is noted to be missing the upper cartilage on both ears.  
 IM is noted to have a laceration to his left eyelid.  
 IM is noted to have trauma to the cornea of his left eye. IM relays that he cannot see out of his eye.  
 IM is noted to have a lateral gaze with his right eye. IM relays that he cannot see out of this eye.  
 IM is noted to have an abrasion to his upper forehead.  
 IM is noted to have trauma to the inside of his upper lip.  
 IM is noted to have a bite mark on his right thumb.  
 IM is noted to be missing the pad on his right middle finger.  
 IM is noted to have a bruise forming over his left clavicle.  
 IM is noted to have a bruise forming on the upper medial aspect of his right bicep.  
 IM is noted to have an abrasion to his right first knuckle.  
 IM is noted to have an abrasion over his left shoulder blade.

**ASSESSMENT:****Bite-Animal or Human**

Requested to report to J-block 3rd floor. Arrived to find IM being restrained and escorted from the cell. IM is noted to be alert and oriented. IM is noted to have significant periorbital swelling. IM escorted to Urgent Care Room. IM is noted to ambulate without difficulty. IM is noted to be missing the upper cartilage on both ears. IM is noted to have a laceration to his left eyelid. IM is noted to have trauma to the cornea of his left eye. IM relays that he cannot see out of his eye. IM is noted to have a lateral gaze with his right eye. IM relays that he cannot see out of this eye. IM is noted to have an abrasion to his upper forehead. IM is noted to have trauma to the inside of his upper lip. Septum is stable to palpation. IM is noted to have a bite mark on his right thumb. IM is noted to be missing the pad on his right middle finger. IM is noted to have a bruise forming over his left clavicle. IM is noted to have a bruise forming on the upper medial aspect of his right bicep. IM is noted to have an abrasion to his right first knuckle. IM is noted to have an abrasion over his left shoulder blade. Gauze applied to ears to attempt to stop the bleeding. 18g IV established left forearm. Good flash

Inmate Name: LEATH, JAMES

Date of Birth: [REDACTED]

Encounter Date: 05/30/2016 21:08

Sex: M Race: BLACK

Provider: Dees, S. NREMT-P

Reg #: 47208-066

Facility: LEW

Unit: J03

noted. Site secured with tegaderm and tape. IM given a total of 700cc of fluid through out contact. IM concerned that he cannot see. Reassurance given. Consulted with Dr. Pigos who requested that the IM be sent to GMC for trauma. IM denies neck or back pain. IM placed on oxygen via NRB at 15 LPM throughout patient contact. Patient care and report given to ALS provider upon arrival.

**PLAN:****Disposition:**

Transfer to Local Hospital

**Patient Education Topics:**

<u>Date Initiated</u>	<u>Format</u>	<u>Handout/Topic</u>	<u>Provider</u>	<u>Outcome</u>
05/30/2016	Counseling	Plan of Care	Dees, S.	No Participation

Coplay Required: No

Cosign Required: Yes

Telephone/Verbal Order: No

Completed by Dees, S. NREMT-P on 05/30/2016 23:45

Requested to be cosigned by Pigos, Kevin MD/Clinical Director.

Cosign documentation will be displayed on the following page.



ALMG2 531.01 \*  
PAGE 001 \*INMATE HISTORY  
ADM-REL\* 09-06-2  
\* 11:32:0DEFENDANT  
EXHIBIT

Attach. 9

REG NO.: 47208-066 NAME....: LEATH, JAMES  
CATEGORY: ARS FUNCTION: PRT FORMAT:

FCL	ASSIGNMENT	DESCRIPTION	START DATE/TIME	STOP DATE/TIME
COP	A-DES	DESIGNATED, AT ASSIGNED FACIL	08-24-2017 1306	CURRENT
B03	RELEASE	RELEASED FROM IN-TRANSIT FACL	08-24-2017 1306	08-24-2017 1306
B03	A-ADMIT	ADMITTED TO AN IN-TRANSIT FACL	08-24-2017 0530	08-24-2017 1306
ATL	HLD REMOVE	HOLDOVER REMOVED	08-24-2017 0530	08-24-2017 0530
ATL	A-BOP HLD	HOLDOVER FOR INST TO INST TRF	08-17-2017 1753	08-24-2017 0530
B02	RELEASE	RELEASED FROM IN-TRANSIT FACL	08-17-2017 1753	08-17-2017 1753
B02	A-ADMIT	ADMITTED TO AN IN-TRANSIT FACL	08-17-2017 1032	08-17-2017 1753
ATL	ADMIN REL	ADMINISTRATIVE RELEASE	08-17-2017 1032	08-17-2017 1032
ATL	A-ADMIN	ADMINISTRATIVE ADMISSION	08-17-2017 1018	08-17-2017 1032
B02	RELEASE	RELEASED FROM IN-TRANSIT FACL	08-17-2017 1018	08-17-2017 1018
B02	A-ADMIT	ADMITTED TO AN IN-TRANSIT FACL	08-17-2017 0907	08-17-2017 1018
BSY	TRANSFER	TRANSFER	08-17-2017 0907	08-17-2017 0907
BSY	A-DES	DESIGNATED, AT ASSIGNED FACIL	05-25-2017 1328	08-17-2017 0907
BSY	LOCAL HOSP	ESC TRIP TO LOCAL HOSP W/RETN	05-25-2017 1010	05-25-2017 1328
BSY	A-DES	DESIGNATED, AT ASSIGNED FACIL	04-07-2017 1148	05-25-2017 1010
BSY	LOCAL HOSP	ESC TRIP TO LOCAL HOSP W/RETN	04-07-2017 0737	04-07-2017 1148
BSY	A-DES	DESIGNATED, AT ASSIGNED FACIL	03-01-2017 1337	04-07-2017 0737
B02	RELEASE	RELEASED FROM IN-TRANSIT FACL	03-01-2017 1337	03-01-2017 1337
B02	A-ADMIT	ADMITTED TO AN IN-TRANSIT FACL	03-01-2017 0600	03-01-2017 1337
ATL	HLD REMOVE	HOLDOVER REMOVED	03-01-2017 0600	03-01-2017 0600
ATL	A-BOP HLD	HOLDOVER FOR INST TO INST TRF	02-08-2017 1300	03-01-2017 0600
A03	RELEASE	RELEASED FROM IN-TRANSIT FACL	02-08-2017 1300	02-08-2017 1300
A03	A-ADMIT	ADMITTED TO AN IN-TRANSIT FACL	02-08-2017 1018	02-08-2017 1300
ATL	ADMIN REL	ADMINISTRATIVE RELEASE	02-08-2017 1018	02-08-2017 1018
ATL	A-ADMIN	ADMINISTRATIVE ADMISSION	02-08-2017 0941	02-08-2017 1018
A03	RELEASE	RELEASED FROM IN-TRANSIT FACL	02-08-2017 0941	02-08-2017 0941
A03	A-ADMIT	ADMITTED TO AN IN-TRANSIT FACL	02-08-2017 0830	02-08-2017 0941
OKL	HLD REMOVE	HOLDOVER REMOVED	02-08-2017 0730	02-08-2017 0730
OKL	A-BOP HLD	HOLDOVER FOR INST TO INST TRF	01-30-2017 1645	02-08-2017 0730
A01	RELEASE	RELEASED FROM IN-TRANSIT FACL	01-30-2017 1745	01-30-2017 1745
A01	A-ADMIT	ADMITTED TO AN IN-TRANSIT FACL	01-30-2017 0518	01-30-2017 1745
ALP	TRANSFER	TRANSFER	01-30-2017 0518	01-30-2017 0518
ALP	A-DES	DESIGNATED, AT ASSIGNED FACIL	09-16-2016 1507	01-30-2017 0518
ALP	LOCAL HOSP	ESC TRIP TO LOCAL HOSP W/RETN	09-16-2016 1201	09-16-2016 1507
ALP	A-DES	DESIGNATED, AT ASSIGNED FACIL	07-20-2016 1150	09-16-2016 1201
B01	RELEASE	RELEASED FROM IN-TRANSIT FACL	07-20-2016 1150	07-20-2016 1150
B01	A-ADMIT	ADMITTED TO AN IN-TRANSIT FACL	07-20-2016 1115	07-20-2016 1150
LEW	TRANSFER	TRANSFER	07-20-2016 1115	07-20-2016 1115
LEW	A-DES	DESIGNATED, AT ASSIGNED FACIL	07-15-2016 1122	07-20-2016 1115
LEW	LOCAL HOSP	ESC TRIP TO LOCAL HOSP W/RETN	07-15-2016 0802	07-15-2016 1122
LEW	A-DES	DESIGNATED, AT ASSIGNED FACIL	06-28-2016 1206	07-15-2016 0802

G0002 MORE PAGES TO FOLLOW . . .

ALMG2 531.01 \*  
 PAGE 002 OF 002 \*

INMATE HISTORY  
 ADM-REL

\* 09-06-2017  
 \* 11:32:02

REG NO.: 47208-066 NAME: LEATH, JAMES  
 CATEGORY: ARS FUNCTION: PRT FORMAT:

FCL	ASSIGNMENT	DESCRIPTION	START DATE/TIME	STOP DATE/TIME
LEW	LOCAL HOSP	ESC TRIP TO LOCAL HOSP W/RETN	06-28-2016 0906	06-28-2016 1206
LEW	A-DES	DESIGNATED, AT ASSIGNED FACIL	06-01-2016 1812	06-28-2016 0906
LEW	LOCAL HOSP	ESC TRIP TO LOCAL HOSP W/RETN	05-30-2016 2227	06-01-2016 1812
LEW	A-DES	DESIGNATED, AT ASSIGNED FACIL	10-05-2015 1430	05-30-2016 2227
A01	RELEASE	RELEASED FROM IN-TRANSIT FACIL	10-05-2015 1430	10-05-2015 1430
A01	A-ADMIT	ADMITTED TO AN IN-TRANSIT FACIL	10-05-2015 0606	10-05-2015 1430
CAA	TRANSFER	TRANSFER	10-05-2015 0606	10-05-2015 0606
CAA	A-DES	DESIGNATED, AT ASSIGNED FACIL	10-27-2014 1010	10-05-2015 0606
9-L	RELEASE	RELEASED FROM IN-TRANSIT FACIL	10-27-2014 1010	10-27-2014 1010
9-L	A-ADMIT	ADMITTED TO AN IN-TRANSIT FACIL	10-08-2014 1636	10-27-2014 1010
DSC	ADMIN REL	ADMINISTRATIVE RELEASE	10-08-2014 1536	10-08-2014 1536
DSC	A-ADMIN	ADMINISTRATIVE ADMISSION	10-08-2014 1505	10-08-2014 1536
SCH	PRE REMOVE	PRE SENT DETAINEE REMOVED	01-25-1994 1329	10-08-2014 1505
SCH	A-PRE	PRE-SENTENCE ADMISSION	11-16-1993 1142	01-25-1994 1329
FAI	PRE REMOVE	PRE SENT DETAINEE REMOVED	11-16-1993 0734	11-16-1993 1142
FAI	A-PRE	PRE-SENTENCE ADMISSION	11-09-1993 1840	11-16-1993 0734
FAI	PRE REMOVE	PRE SENT DETAINEE REMOVED	11-09-1993 0746	11-09-1993 1840
FAI	A-PRE	PRE-SENTENCE ADMISSION	09-24-1993 1835	11-09-1993 0746
FAI	COURT	COURT APPEARANCE W/SCHED RETRN	09-24-1993 0740	09-24-1993 1835
FAI	A-PRE	PRE-SENTENCE ADMISSION	09-21-1993 1932	09-24-1993 0740
FAI	COURT	COURT APPEARANCE W/SCHED RETRN	09-21-1993 0727	09-21-1993 1932
FAI	A-PRE	PRE-SENTENCE ADMISSION	09-17-1993 1436	09-21-1993 0727

G0000 TRANSACTION SUCCESSFULLY COMPLETED

**Bureau of Prisons  
Psychology Services  
Intake Screening**

\*\*SENSITIVE

DEFENDANT  
EXHIBIT

Attach. 10

Inmate Name: LEATH, JAMES

Reg #: 47208-063

Date of Birth: [REDACTED]

Sex: M Facility: COP

Unit Team: E/F

Date: 08/31/2017 12:45

Provider: Armstrong, Kelly PsyD

**Limits of Confidentiality**

Limits of confidentiality were reviewed with inmate LEATH. He expressed an understanding of the limits of confidentiality and consented to be interviewed accordingly.

**Data Source(s)**

The following data sources were reviewed in conjunction with this Initial Intake Evaluation: Self-Report, SENTRY, Staff Observation, Other.

PSIQ, BEMR-PDS

**Mental Health History and Current Symptoms**

No history of mental health issues was noted.

No history of prior mental health treatment was noted.

No current mental health symptoms were noted.

No suicidal ideation, attempts, or self-harm were noted.

**Substance Abuse**

No history of substance abuse was noted.

No history of substance abuse treatment was noted.

**Sex Offenses**

No sexual offense convictions were noted.

No history of sexual predation in a correctional setting was noted.

**Relevant Psychosocial History**

Noteworthy psychosocial issues: Criminal History, Other.

Per SENTRY: Currently serving LIFE sentence for "CONSPIRACY TO DISTRIBUTE COCAINE BASE" and "91-SHOT LEO DURING TRFK STOP/PAROLED FRM STATE."

LEATH denied a history of sexual misconduct toward staff and available records corroborate his report. Regardless, LEATH was reminded FCC Coleman has a zero tolerance for inmate sexual misconduct toward staff. Inmate LEATH was informed of the Prison Sexual Abuse/Sexual Assault Prevention Program. He denied a history of sexual victimization or predation during incarceration. As of this date, there is no evidence that LEATH has threatened or attempted sexual abuse/assault during his incarceration. Neither records nor reports provide any information that would warrant concern about his risk for victimization or potential for abusiveness. He did not endorse any current concerns regarding adjustment or concerns for his safety. He indicated he is aware of how to seek staff assistance should he feel Protective Custody is necessary, but he does not feel it is warranted at this time.

**Adjustment to Incarceration**

No adjustment to incarceration concerns.

**Findings**

Care Level: CARE1-MH

LEATH appeared alert and oriented to all spheres. He presented appropriately dressed in the standard inmate issued uniform, and grooming and hygiene were within normal limits. His affect was appropriate and congruent to mood. Recent and remote memory appeared intact. Insight and judgment were adequate. He maintained an appropriate level of eye contact throughout the interview. His speech was normal in rate and tone, and his thoughts were logical, coherent, and goal directed. He denied hallucinations and did not appear to be responding to internal stimuli during this interview. There were no clinical indications of acute psychosis or a formal thought disorder. He denied current suicidal ideation, plan, or intent. He denied current symptoms of mental illness and did not appear to be in acute distress. He reported that his activities of daily living are currently within normal limits. He does not currently have a diagnosis, nor is he currently prescribed psychotropic medication. LEATH denied interest in follow-up services.

Given his current stability and denial for services, he meets the criteria for a Care1-MH assignment. No follow-up is warranted at this time. Procedures for contacting Psychology Services for both routine and emergency situations were reviewed with the

---

Inmate Name:	LEATH, JAMES	Reg #:	47208-066
Date of Birth:	██████████	Sex:	M
		Facility:	COP
Date:	08/31/2017 12:45	Unit Team:	E/F
		Provider:	Armstrong, Kelly PsyD

---

inmate. He acknowledged understanding of them and agreed to utilize them, as needed.

**Recommendations**

No psychological services are recommended at this time.

Completed by Armstrong, Kelly PsyD on 09/09/2017 10:22

**Reviewed by Ramos Santiago, Iris PhD/Deputy Chief Psychologist on 09/12/2017 09:16**

**Bureau of Prisons  
Psychology Services  
SHU Review**

\*\*SENSITIVE BUT UNCLASSIFIED\*\*

<b>Inmate Name:</b>	LEATH, JAMES	<b>Reg #:</b>	47208-066
<b>Date of Birth:</b>	██████████	<b>Sex:</b>	M
<b>Date:</b>	08/16/2017 12:54	<b>Facility</b>	BSY
		<b>Unit Team:</b>	B UNIT
		<b>Provider:</b>	Olive, Brandon PhD

---

<b>Placed in SHU:</b>	08/06/2017	<b>Type:</b>	SHU
<b>Status:</b>	ADMIN.DETENTION	<b>Threat to Self:</b>	Low
<b>Basis of Review:</b>	Inmate was interviewed	<b>Adjustment:</b>	Satisfactory, segregation not detrimental
<b>Mental Status:</b>	No significant mental health issues.	<b>Threat to Others:</b>	Low

**Comments**

A 30-day SHU Review was conducted on this date in the USP - Big Sandy special housing unit (SHU). Inmate LEATH was provided an opportunity to consult with a psychologist for mental health concerns, and no complaints or acute issues were reported or observed. No additional information was provided by SHU staff to suggest the presence of any psychological symptoms or other mental health concerns not specifically referenced elsewhere in the inmate's file. Consequently, there appear to be no acute mental health problems requiring immediate psychological intervention. Inmate LEATH will continue to be seen regularly by Psychology during rounds in SHU. He was advised of how to contact Psychology Services in the meantime if needed. No further intervention appeared warranted at this time.

Completed by Olive, Brandon PhD on 08/16/2017 13:18

**Bureau of Prisons  
Psychology Services  
SHU Review**

\*\*SENSITIVE BUT UNCLASSIFIED\*\*

<b>Inmate Name:</b>	LEATH, JAMES	<b>Reg #:</b>	47208-066
<b>Date of Birth:</b>	██████████	<b>Sex:</b>	M
<b>Date:</b>	07/21/2017 15:41	<b>Facility:</b>	BSY
		<b>Unit Team:</b>	B UNIT
		<b>Provider:</b>	Olive, Brandon PhD

---

<b>Placed in SHU:</b>	07/17/2017	<b>Type:</b>	SHU
<b>Status:</b>	ADMIN.DETENTION	<b>Threat to Self:</b>	Low
<b>Basis of Review:</b>	Inmate was interviewed	<b>Adjustment:</b>	Satisfactory, segregation not detrimental
<b>Mental Status:</b>	No significant mental health issues.	<b>Threat to Others:</b>	Low

**Comments**

A 30-day SHU Review was conducted on this date in the USP - Big Sandy special housing unit (SHU). Inmate LEATH was provided an opportunity to consult with a psychologist for mental health concerns, and no complaints or acute issues were reported or observed. No additional information was provided by SHU staff to suggest the presence of any psychological symptoms or other mental health concerns not specifically referenced elsewhere in the inmate's file. Consequently, there appear to be no acute mental health problems requiring immediate psychological intervention. Inmate LEATH will continue to be seen regularly by Psychology during rounds in SHU. He was advised of how to contact Psychology Services in the meantime if needed. No further intervention appeared warranted at this time.

Completed by Olive, Brandon PhD on 07/21/2017 15:53

**Bureau of Prisons  
Psychology Services  
SHU Review**

\*\*SENSITIVE BUT UNCLASSIFIED\*\*

<b>Inmate Name:</b>	LEATH, JAMES	<b>Reg #:</b>	47208-066
<b>Date of Birth:</b>	██████████	<b>Sex:</b>	M
<b>Date:</b>	06/28/2017 16:12	<b>Facility</b>	BSY
		<b>Unit Team:</b>	B UNIT
		<b>Provider:</b>	Olive, Brandon PhD

---

<b>Placed in SHU:</b>	06/26/2017	<b>Type:</b>	SHU
<b>Status:</b>	ADMIN.DETENTION	<b>Threat to Self:</b>	Low
<b>Basis of Review:</b>	Inmate was interviewed	<b>Adjustment:</b>	Satisfactory, segregation not detrimental
<b>Mental Status:</b>	No significant mental health issues.	<b>Threat to Others:</b>	Low

**Comments**

A 30-day SHU Review was conducted on this date in the USP - Big Sandy special housing unit (SHU). Inmate LEATH was provided an opportunity to consult with a psychologist for mental health concerns, and no complaints or acute issues were reported or observed. No additional information was provided by SHU staff to suggest the presence of any psychological symptoms or other mental health concerns not specifically referenced elsewhere in the inmate's file. Consequently, there appear to be no acute mental health problems requiring immediate psychological intervention. Inmate LEATH will continue to be seen regularly by Psychology Services during weekly SHU rounds. The inmate was also advised of how to contact Psychology Services for emerging urgent or non-urgent mental health issues, if needed. No further clinical intervention appears to be warranted at this time.

Completed by Olive, Brandon PhD on 06/28/2017 16:43

**Bureau of Prisons  
Psychology Services  
Protective Custody Review**

\*\*SENSITIVE BUT UNCLASSIFIED\*\*

Inmate Name: LEATH, JAMES		Reg #: 47208-066
Date of Birth: [REDACTED]	Sex: M Facility: BSY	Unit Team: B UNIT
Date: 06/27/2017 12:10	Provider: LeFever, Mollie PsyD/Chief	

**Reason for Placement**

Inmate LEATH was placed in protective custody status per his request for protection when threatened on the compound on 06-27-2017. The inmate was screened by Psychology Services on 06-27-2017. The contact assessed whether mental health services might be warranted for this inmate based on his past and current level of institutional adjustment in response to his placement into protective custody.

**Mental Status**

Inmate XXXX was alert and oriented and demonstrated no sign of fatigue. He was dressed and groomed appropriately. Speech was normal in rate, rhythm, and tone. Eye contact was maintained throughout the encounter. No evidence of psychomotor agitation or retardation was observed. He presented as polite and cooperative with this writer. Thought content was logical and goal-oriented. Perceptual disturbances were denied and delusions were not elicited. Mood was unremarkable with consistent affect. He denied suicidal/homicidal ideation, intent, and plan. Insight and judgment presented as fair.

**Mental Health History**

A review of available psychological records reveals the inmate has no history of significant mental health issues.

**Comments**

At the time of the interview no special recommendations are warranted. Sound correctional principles and practices should be applied in the management of this inmate unless there are changes in his overall functioning warranting re-assessment and/or additional psychological interventions. For the duration of his time housed in SHU he will have access to mental health services as needed.

**Recommendations**

At the time of the interview his level of psychological adjustment is viewed as satisfactory. Therefore, current assignment to the Special Housing Unit relative to protective custody does not appear to be adversely impacting the inmate. It is recommended he participate in SHU self-study programming and advised how to request such materials. It is always good practice to avoid a single cell scenario, particularly with inmates in Protective Custody. Therefore, the SHU Lt was notified and it was recommended the inmate be housed with a cellmate.

Completed by LeFever, Mollie PsyD/Chief Psychologist on 06/27/2017 12:11



**Bureau of Prisons  
Psychology Services  
Transfer Intake Screening**

\*\*SENSITIVE BUT UNCLASSIFIED\*\*

Inmate Name: LEATH, JAMES		Reg #: 47208-066
Date of Birth: [REDACTED]	Sex: M Facility: BSY	Unit Team: B UNIT
Date: 03/01/2017 09:24	Provider: LeFever, Mollie PsyD/Chief	

Date of Intrasystem Transfer: 03/01/2017 Transferred From: ALX--ALLENWOOD FCC

- |   |    |
|---|----|
| 1. Review of Inmate's PSIQ indicates that an in-person interview is clinically indicated?                 | No |
| 2. Review of Inmate's MENTAL HEALTH record indicates that an in-person interview is clinically indicated? | No |
| 3. Review of Inmate's SENTRY record indicates that an in-person interview is clinically indicated?        | No |
| 4. Is there any other information which indicates current need or request for Psychological Services?     | No |

**Summary**

After a review of the PSIQ, mental health, and SENTRY data, no clinical indications are present which warrant a clinical interview. The Inmate Handbook contains information concerning Psychology Services and the inmate will attend an Admission and Orientation session where Psychology Services will be reviewed.

Completed by LeFever, Mollie PsyD/Chief Psychologist on 03/17/2017 09:25

**Bureau of Prisons  
Psychology Services  
SHU Review**

\*\*SENSITIVE BUT UNCLASSIFIED\*\*

<b>Inmate Name:</b>	LEATH, JAMES	<b>Reg #:</b>	47208-066
<b>Date of Birth:</b>	██████████	<b>Sex:</b>	M
<b>Date:</b>	01/20/2017 09:45	<b>Facility</b>	ALP
		<b>Unit Team:</b>	I
		<b>Provider:</b>	Seymour, Colin Psych Intern

---

<b>Placed in SHU:</b>	01/15/2017	<b>Type:</b>	SHU
<b>Status:</b>	ADMIN.DETENTION	<b>Threat to Self:</b>	Low
<b>Basis of Review:</b>	Inmate was interviewed	<b>Adjustment:</b>	Satisfactory, segregation not detrimental
<b>Mental Status:</b>	No significant mental health issues.	<b>Threat to Others:</b>	Low

**Comments**

The inmate has reported no mental health concerns and SHU staff have reported no observed mental health problems or issues with this inmate. Continue to see through 30-day SHU Review process or individually upon request/referral.

Completed by Seymour, Colin Psych Intern on 01/20/2017 09:45

**Reviewed by Mitchell, John PsyD/Chief Psychologist on 01/25/2017 15:26**

**Bureau of Prisons  
Psychology Services  
SHU Review**

\*\*SENSITIVE BUT UNCLASSIFIED\*\*

<b>Inmate Name:</b>	LEATH, JAMES	<b>Reg #:</b>	47208-066
<b>Date of Birth:</b>	██████████	<b>Sex:</b>	M
<b>Date:</b>	12/23/2016 10:10	<b>Facility</b>	ALP
		<b>Unit Team:</b>	I
		<b>Provider:</b>	Seymour, Colin Psych Intern

---

<b>Placed in SHU:</b>	12/04/2016	<b>Type:</b>	SHU
<b>Status:</b>	ADMIN.DETENTION	<b>Threat to Self:</b>	Low
<b>Basis of Review:</b>	Inmate was interviewed	<b>Adjustment:</b>	Satisfactory, segregation not detrimental
<b>Mental Status:</b>	No significant mental health issues.	<b>Threat to Others:</b>	Low

**Comments**

The inmate has reported no mental health concerns and SHU staff have reported no observed mental health problems or issues with this inmate. Continue to see through 30-day SHU Review process or individually upon request/referral.

Completed by Seymour, Colin Psych Intern on 12/23/2016 10:10

**Reviewed by Gemberling, A. PsyD on 12/23/2016 12:30**

**Bureau of Prisons  
Psychology Services  
Group Participation**

\*\*SENSITIVE BUT UNCLASSIFIED\*\*

<b>Inmate Name:</b> LEATH, JAMES		<b>Reg #:</b> 47208-066	
<b>Date of Birth:</b> [REDACTED]	<b>Sex:</b> M	<b>Facilitator:</b> (P)Klembara, Tara DTS	
<b>Date:</b> 08/30/2016	<b>Group Facility:</b> ALP	<b>Group Title:</b> [382] Tuesday 8:30 08/30/2016	

**Status:** Expulsion  
**Enroll Date:** 08/30/2016    **End Date:** 10/25/2016  
**Total Hours:** 0

**SESSION DATA:**

<b>Number of Sessions:</b> 7	<b>First Session Date:</b> 09/08/2016	<b>Last Session Date:</b> 10/18/2016
------------------------------	---------------------------------------	--------------------------------------

<u>Date</u>	<u>Title</u>	<u>Duration</u>	<u>Attendance</u>	<u>Participation</u>	<u>Homework</u>
10/18/2016	Staff on AL	0	Incomplete Session	Not Apply	Not Apply
10/12/2016	Staff Recall No 830/930 Moves	0	Incomplete Session	Not Apply	Not Apply
10/11/2016	Adverse Weather	0	Incomplete Session	Not Apply	Not Apply
09/27/2016	Facilities Working on Fire Alarm in Department	0	Incomplete Session	Not Apply	Not Apply
09/20/2016	Adverse Weather	0	Incomplete Session	Not Apply	Not Apply
09/13/2016	Institutional Recall 8:30 AM	0	Incomplete Session	Not Apply	Not Apply
09/08/2016	Staff Recall/Adverse Weather	0	Incomplete Session	Not Apply	Not Apply

<u>Attendance</u>		<u>Participation</u>		<u>Homework</u>	
Complete Session Present	0.0 %	Good	0.0 %	Not Apply	100.0 %
Incomplete Session	100.0 %	Fair	0.0 %	Satisfactory	0.0 %
Excused		Poor	0.0 %	Unsatisfactory	0.0 %
Incomplete Session Not Excused	0.0 %	Not Apply	100.0 %		
Absent Excused	0.0 %				
Absent Not Excused	0.0 %				

**COMMENTS:**

<u>Date</u>	<u>Provider</u>
10/25/2016	Klembara, Tara DTS

Inmate failed to show for callouts on 09/26/2016 and 10/25/2016.

**Bureau of Prisons  
Psychology Services  
Transfer Intake Screening**

\*\*SENSITIVE BUT UNCLASSIFIED\*\*

Inmate Name: LEATH, JAMES		Reg #: 47208-066
Date of Birth: [REDACTED]	Sex: M Facility: ALP	Unit Team: I
Date: 08/03/2016 14:33	Provider: McCain, Tiffany PsyD	

Date of Intrasystem Transfer: 07/20/2016 Transferred From: LEW--LEWISBURG USP

- |   |    |
|---|----|
| 1. Review of Inmate's PSIQ indicates that an in-person interview is clinically indicated?                 | No |
| 2. Review of Inmate's MENTAL HEALTH record indicates that an in-person interview is clinically indicated? | No |
| 3. Review of Inmate's SENTRY record indicates that an in-person interview is clinically indicated?        | No |
| 4. Is there any other information which indicates current need or request for Psychological Services?     | No |

**Summary**

After a review of the PSIQ, mental health, and SENTRY data, no clinical indications are present which warrant a clinical interview. The Inmate Handbook contains information concerning Psychology Services and the inmate will attend an Admission and Orientation session where Psychology Services will be reviewed.

Completed by McCain, Tiffany PsyD on 08/03/2016 14:34

**Bureau of Prisons**  
**Psychology Services**  
**Clinical Intervention - Clinical Contact**

\*\*SENSITIVE BUT UNCLASSIFIED\*\*

Inmate Name: LEATH, JAMES		Reg #: 47208-066
Date of Birth: [REDACTED]	Sex: M Facility: LEW	Unit Team: X-BLOCK
Date: 07/13/2016 14:12	Provider: McCrea, Sheila PsyD	

**Focus of Session**

Inmate LEATH was seen today after he requested to be pulled out of his cell to speak to psychology during rounds yesterday.

**Subjective/Objective Presentation**

Subjective: Inmate LEATH reported that he is feeling particularly stressed due to his recent injury and the impact on his eyesight, as well as recent issues with his son.

Objective: Inmate LEATH is a 50-year old, BLACK male, who was alert and oriented. Hygiene and the conditions of his cell were appropriate. Speech was normal in rate, rhythm, and tone. Eye contact was maintained throughout the encounter without marked disturbance. No evidence of psychomotor agitation or retardation was observed. He presented as polite and cooperative with this writer. Speech and thought processes were coherent, logical, and goal directed. Attention and concentration appeared to be within normal limits. Inmate LEATH demonstrated no obvious impairments in memory. No overt symptoms of psychosis were observed, reported, or suspected. Mood was euthymic with full, unrestricted range of affect. He did not endorse suicidal/homicidal ideation, plan, or intent.

**Intervention(s)**

Inmate LEATH described how his and his son's situations have impacted his stress level and admitted that he does not know how to deal with the increase. He was open to offered suggestions and interventions and agreed to receive materials to further help with stress. He indicated that he is able to read, although it hurts his good eye at times. The materials being sent to him (10 Relaxation Techniques that Zap Stress Fast and How to Deal with Stress) have been modified to a much larger font to make the reading easier for him.

**Progress/Plan**

Inmate LEATH will continue to be seen during routine rounds and for SMU Reviews. He agreed to check in regarding the provided materials during rounds next week. He was made aware of how to contact Psychology Services.

**Diagnosis:**

No Diagnosis, No Dx - Current

Completed by McCrea, Sheila PsyD on 07/13/2016 14:17

**Reviewed by Sage, Jessica PsyD/Chief Psychologist on 07/13/2016 15:43**

**Bureau of Prisons  
Psychology Services  
SMU Review**

\*\*SENSITIVE BUT UNCLASSIFIED\*\*

<b>Inmate Name:</b>	LEATH, JAMES	<b>Reg #:</b>	47208-066
<b>Date of Birth:</b>	██████████	<b>Sex:</b>	M
<b>Date:</b>	07/12/2016 13:43	<b>Facility:</b>	LEW
		<b>Unit Team:</b>	X-BLOCK
		<b>Provider:</b>	McCrea, Sheila PsyD
<b>Placed in SMU:</b>	06/15/2016	<b>Type:</b>	SMU
<b>Status:</b>	ADMIN.DETENTION	<b>Threat to Self:</b>	Low
<b>Basis of Review:</b>	Inmate was interviewed	<b>Adjustment:</b>	Satisfactory, segregation not detrimental
<b>Mental Status:</b>	No significant mental health issues.	<b>Threat to Others:</b>	Low

**Comments**

Inmate LEATH has been designated for placement in the Special Management Unit. In accordance with Program Statement 5217.01, Special Management Units, a psychological review was conducted. LEATH was offered the opportunity to speak with Psychology Services on this date. Other staff members and/or available records were consulted as necessary and appropriate.

The findings of this review are:

**MENTAL STATUS:** Current mental status, emotional expression, and behavior do not suggest significant mental health problems. Inmate Leath requested to speak with his case manager and to be pulled out of his cell to speak with psychology. He will be pulled out tomorrow.

**ADJUSTMENT:** Based on available information, current adjustment to Special Management Unit appears to be SATISFACTORY.

**THREAT TO SELF:** Precise prediction of self-injurious behavior is difficult and should be modified over time as individual circumstances change. Based on the inmate's history, existing conditions, and other information available at the time of the review, the current risk of self-harm is judged to be LOW.

**THREAT TO OTHERS:** Precise prediction of dangerousness is difficult and should be modified over time as individual circumstances change. Based on the inmate's history, existing conditions, and other information available at the time of the review, the current potential for harm to others is judged to be MODERATE.

Significant mental health concerns were not evident in this review. He will continue to be seen during routine rounds and as needed.

Completed by McCrea, Sheila PsyD on 07/13/2016 14:12

**Reviewed by Sage, Jessica PsyD/Chief Psychologist on 07/13/2016 15:42**

**Bureau of Prisons  
Psychology Services  
SMU Review**

\*\*SENSITIVE BUT UNCLASSIFIED\*\*

<b>Inmate Name:</b>	LEATH, JAMES	<b>Reg #:</b>	47208-066
<b>Date of Birth:</b>	██████████	<b>Sex:</b>	M
<b>Date:</b>	06/15/2016 11:32	<b>Facility:</b>	LEW
		<b>Unit Team:</b>	X-BLOCK
		<b>Provider:</b>	Eigenbrode, Rachel PsyD

---

<b>Placed in SMU:</b>	10/05/2015	<b>Type:</b>	SMU
<b>Status:</b>	ADMIN.DETENTION	<b>Threat to Self:</b>	Low
<b>Basis of Review:</b>	Inmate was interviewed	<b>Adjustment:</b>	Satisfactory, segregation not detrimental
<b>Mental Status:</b>	No significant mental health issues.	<b>Threat to Others:</b>	Moderate

**Comments**

Inmate LEATH has been designated for placement in the Special Management Unit. In accordance with Program Statement 5217.01, Special Management Units, a psychological review was conducted. LEATH was offered the opportunity to speak with Psychology Services on this date. Other staff members and/or available records were consulted as necessary and appropriate.

The findings of this review are:

**MENTAL STATUS:** Current mental status, emotional expression, and behavior do not suggest significant mental health problems.

**ADJUSTMENT:** Based on available information, current adjustment to Special Management Unit appears to be SATISFACTORY.

**THREAT TO SELF:** Precise prediction of self-injurious behavior is difficult and should be modified over time as individual circumstances change. Based on the inmate's history, existing conditions, and other information available at the time of the review, the current risk of self-harm is judged to be LOW.

**THREAT TO OTHERS:** Precise prediction of dangerousness is difficult and should be modified over time as individual circumstances change. Based on the inmate's history, existing conditions, and other information available at the time of the review, the current potential for harm to others is judged to be MODERATE.

Significant mental health concerns were not evident in this review. He will continue to be seen during routine rounds and as needed.

Completed by Eigenbrode, Rachel PsyD on 06/22/2016 12:38

**Drafted by Bohner, Rebekah Psychology Contractor**



**Bureau of Prisons**  
**Psychology Services**  
**Clinical Intervention - Clinical Contact**

\*\*SENSITIVE BUT UNCLASSIFIED\*\*

Inmate Name: LEATH, JAMES		Reg #: 47208-066
Date of Birth: [REDACTED]	Sex: M Facility: LEW	Unit Team: X-BLOCK
Date: 06/02/2016 13:05	Provider: McCrea, Sheila PsyD	

**Focus of Session**

Inmate Leath was seen in urgent care today following his return from the hospital after a fight with his cell mate, to assess psychological status and treatment needs.

**Subjective/Objective Presentation**

Inmate Leath was seen in the urgent care room after his return from the hospital. He presented as calm and cooperative and stated that he was doing "as good as I can" at the moment. He indicated some concern with his vision, particularly in being able to shower properly and what cell he would be placed in. He also stated that he wanted to speak with his family to ensure that his medical needs were being treated appropriately. He was referred to his unit case manager to request a phone call for this reason. He adamantly denied any suicidal ideation and indicated that he did not need anything from psychology at this time.

MSE: Inmate LEATH is a 50-year old BLACK male who appeared his chronological age. He was alert and oriented times three and demonstrated no sign of fatigue. He was dressed appropriately and grooming appeared well kept as possible. Speech was normal in rate, rhythm, and tone. No evidence of psychomotor agitation or retardation was observed. He presented as polite and cooperative with this writer. Thought process was linear and logical while content was goal directed. Attention and concentration appear to be within normal limits. Inmate LEATH demonstrated no obvious impairments in memory. Perceptual disturbances were denied and delusions were not elicited. Mood was euthymic with full, unrestricted range of affect. He denied suicidal/homicidal ideation, plan, or intent. Insight and judgment presented as limited.

A review of records shows that Inmate Leath has no mental health history either prior to or during his incarceration. He is designated as a Care 1 - MH inmate and has no psychiatric diagnosis.

**Intervention(s)**

As noted, Inmate Leath denied the need for any psychological services at this time. He was referred to the appropriate staff for the concerns that he expressed regarding a phone call to his family and adequate cell accommodations.

**Progress/Plan**

A formal follow-up is not required at this time. Inmate LEATH will continue to be seen during routine rounds and for SMU Reviews. He was made aware of how to contact Psychology Services should the need arise.

**Diagnosis:**

No Diagnosis, No Dx - Current

Completed by McCrea, Sheila PsyD on 06/02/2016 13:29

**Reviewed by Sage, Jessica PsyD/Chief Psychologist on 06/03/2016 11:00**

BP-A0304  
AUG 11

## DISCIPLINE HEARING OFFICER REPORT CDFRM

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

DEFENDANT  
EXHIBIT

Attach. 11

Institution: USP, Lewisburg	Incident Report Number: 2856472
NAME OF INMATE: LEATH, James	REG.NO.: 47208-066 UNIT: X-Block
Date of Incident Report: 5-30-2016	Offense Code: 201
Date of Incident: 5-30-2016	
Summary of Charges: Fighting with Another Person	
I. NOTICE OF CHARGE(S)	
A. Advanced written notice of charge (copy of Incident Report) was given to inmate on (date) <u>6-3-2016</u> at (time) <u>7:50 a.m.</u> (by staff member) <u>L. Bidelsbach</u> .	
B. The DHO Hearing was held on (date) <u>6-13-2016</u> at (time) <u>11:00 a.m.</u>	
C. The inmate was advised of the rights before the DHO by (staff member) <u>G. Reese</u> on (date) <u>6-3-2016</u> and copy of the advisement of rights form is attached.	
II. STAFF REPRESENTATIVE	
A. Inmate waived right to staff representative. Yes <u>XX</u> No <u>    </u>	
B. Inmate requested staff representative and <u>N/A</u> appeared.	
C. Requested staff representative declined or could not appear but inmate was advised of option to postpone hearing to obtain another staff representative with the result that: <u>N/A</u> .	
D. Staff representative <u>N/A</u> was appointed.	
E. Staff representative statement: <u>N/A</u> .	
III. PRESENTATION OF EVIDENCE	
A. Inmate <u>    </u> (admits) <u>XX</u> (denies) the charge(s).	
B. Summary of inmate statement:	
<p>Inmate Leath acknowledged he understood his rights before the DHO, was waiving his right to staff representation in this case, and was ready to proceed with the hearing. Inmate Leath presented no documents for the DHO to consider. Inmate Leath testified that Section 11 of the incident report is not accurate. Inmate Leath testified, in response to Section 11 of the incident report, "I never admitted to anything. If he <u>    </u> admitted to something, why can't you just find him guilty and let me go. Look at my situation. He gouged my eyes out. I can't see." The DHO acknowledged the testimony of Leath, however, noted <u>    </u> also sustained severe injuries as a result of the incident. The DHO reviewed the Federal Bureau of Prisons Health Services Clinical Encounter Forms, prepared with regard to inmates <u>    </u> and LEATH, James #47208-066, dated 5-30-2016 with Leath, and informed Leath this evidence, despite his (Leath's) injuries, supports a conclusion Leath and <u>    </u> were involved in a fight. The DHO questioned Leath, and afforded him an opportunity to describe the details of the incident from his position. Leath stated "Man, I can't get into all that. I don't do that." Inmate Leath declined to comment further regarding the incident. Inmate Leath made no complaints of procedural errors during the hearing.</p>	
C. Witnesses:	
1. The inmate requested witnesses. Yes <u>    </u> No <u>XX</u>	
2. The following persons were called as witness at this hearing and appeared: <u>N/A</u> .	
3. A summary of the testimony of each witness is attached <u>N/A</u> .	
4. The following persons requested were not called for the reason(s) given: <u>N/A</u> .	
5. Unavailable witnesses were requested to submit written statements and those statements received were considered <u>N/A</u> .	
D. Documentary Evidence: In addition to the Incident Report and Investigation, the DHO considered the following documents:	
<p>Memoranda from J. Leonowicz, A. Resseguie, and D. Hess, dated 5-30-2016; Federal Bureau of Prisons Health Services Clinical Encounter Forms, prepared with regard to inmates LEATH, James #47208-066 and <u>    </u>, dated 5-30-2016; Photographs of inmates LEATH, James #47208-066 and <u>    </u> and the incident scene, J-Block cell 316, taken following the incident</p>	

BP-A0304  
AUG 11

## DISCIPLINE HEARING OFFICER REPORT CDFRM

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

Name of Inmate: LEATH, James	Reg. No.: 47208-066	Hearing Date: 6-13-2016
---------------------------------	------------------------	----------------------------

E. Confidential information was used by DHO in support of his findings, but was not revealed to the inmate. The confidential information was documented in a separate report. The confidential information has been (confidential informants have been) determined to be reliable because: N/A.

## IV. FINDINGS OF THE DHO

- ☒ A. The act was committed as charged. ☐ C. No prohibited act was committed:  
☐ B. The following act was committed: ☐ D. Expunge according to Inmate Discipline PS.  
☐

## V. SPECIFIC EVIDENCE RELIED ON TO SUPPORT FINDINGS (Physical evidence, observations, written documents, etc.):

The DHO finds that inmate Leath committed the prohibited act of Fighting, Code 201. This finding is based on the eyewitness written account of the reporting officer, which indicates on 5-30-2016 at approximately 9:08 p.m., the reporting officer was notified via radio to report to J-Block 3<sup>rd</sup> Floor due to inmates [REDACTED] and LEATH, James #47208-066, housed in J-Block cell 316, having injuries consistent with being in a physical altercation. Specifically, the J-Block #3 Officer approached J-Block cell 316 as he was making irregular rounds and observed inmates [REDACTED] and Leath covered in blood. Upon the arrival of the reporting officer, inmates [REDACTED] and Leath submitted to hand restraints. The inmates were removed from the cell and escorted by other staff members to the Urgent Care Rooms in the Health Services area to be evaluated. Based on the inmates' injuries, it was determined that inmates [REDACTED] and Leath were involved in a physical altercation not witnessed by staff. The inmates sustained multiple injuries that required outside medical treatment.

This finding is further based upon the Federal Bureau of Prisons Health Services Clinical Encounter Form, prepared with regard to inmate [REDACTED] dated 5-30-2016. This form documents inmate [REDACTED] was noted to have sustained the following injuries during an examination by the healthcare provider following the incident: the lateral aspect of his upper lip was missing on both sides; bite marks on his lower lip, which appeared to go completely through his lower lip; an abrasion on the medial aspect of his left eyebrow; a hematoma and bruising forming on the lateral aspect of his left eyebrow; bite marks to both of his thumbs; and an abrasion to the medial aspect of his left knee. The form indicates [REDACTED] stated to the healthcare provider that he sustained the injuries as a result of "falling out of bed and hitting his head on the ground." Finally, the form notes [REDACTED] was transferred via ambulance to a local community hospital for further evaluation and treatment due to the severity of the injuries he sustained.

This finding is further based upon the Federal Bureau of Prisons Health Services Clinical Encounter Form, prepared with regard to inmate LEATH, James #47208-066, dated 5-30-2016. This form documents inmate Leath was noted to have sustained the following injuries during an examination by the healthcare provider following the incident: missing upper cartilage on both ears; a laceration to his left eyelid; trauma to the cornea of the left eye (Leath stated repeatedly during the examination that he could not see out of this eye); a lateral gaze with the right eye (Leath stated repeatedly during the examination that he could not see out of this eye); an abrasion to his upper forehead; trauma to the inside of his upper lip; a bite mark on his right thumb; missing the pad on his right middle finger; a bruise forming over the left clavicle; a bruise forming on the upper medial aspect of his right bicep; an abrasion to his right first knuckle; an abrasion on his left shoulder blade; and significant periorbital swelling. Finally, the form notes Leath was transferred via ambulance to a local community hospital for further evaluation and treatment due to the severity of the injuries he sustained.

This finding is further based upon the photographs of inmates [REDACTED] and LEATH, James #47208-066 taken following the incident. These photographs depict visually the nature of the injuries sustained by each of the inmates and support and corroborate the Federal Bureau of Prisons Health Services Clinical Encounter Forms, prepared with regard to inmates [REDACTED] and LEATH, James #47208-066, dated 5-30-2016, as documented in the preceding paragraphs.

This finding is further based upon the testimony of inmate Leath, in which he did not specifically deny a physical altercation occurred between him and [REDACTED] rather, attempted to mitigate or justify his actions during the incident. Inmate Leath testified, in response to Section 11 of the incident report, "I never admitted to anything. If he [REDACTED] admitted to something, why can't you just find him guilty and let me go. Look at my situation. He gouged my eyes out. I can't see." The DHO acknowledged the testimony of Leath, however, noted [REDACTED] also sustained severe injuries as a result of the incident. The DHO reviewed the Federal Bureau of Prisons Health

BP-A0304  
AUG 11

## DISCIPLINE HEARING OFFICER REPORT CDFRM

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

Name of Inmate: LEATH, James	Reg. No.: 47208-066	Hearing Date: 6-13-2016
---------------------------------	------------------------	----------------------------

Services Clinical Encounter Forms, prepared with regard to inmates [REDACTED] and LEATH, James #47208-066, dated 5-30-2016 with Leath, and informed Leath this evidence, despite his (Leath's) injuries, supports a conclusion Leath and [REDACTED] were involved in a fight. The DHO questioned Leath, and afforded him an opportunity to describe the details of the incident from his position. Leath stated "Man, I can't get into all that. I don't do that." Inmate Leath declined to comment further regarding the incident.

The DHO notes and has considered as evidence in this case the testimony of inmate Leath, in which he inferred or implied he did not instigate the incident and was merely responding to aggression and injury by [REDACTED]. Leath further testified he should be found "not guilty" of the charges based solely on the severity of the injuries he sustained. The DHO gives less weight to this evidence than that to which the greater weight is given in this case, for the following reasons. First, both inmates sustained incredibly severe injuries during the incident, consistent with being involved in a fight. Moreover, when afforded an opportunity to describe the details of the incident from his position Leath stated "Man, I can't get into all that. I don't do that." This fact provides an adverse inference that inmate Leath committed the prohibited act as charged. The DHO has concluded, therefore, that Leath's testimony regarding his alleged rationale for engaging in the act is not evidence supporting a finding that he did not commit a prohibited act in this case, nor does it constitute sufficient justification for committing the prohibited act, nor does it mitigate the severity of the prohibited act committed in this case.

The greater weight of the evidence in this case, therefore, supports the finding inmate Leath committed the prohibited act of Fighting, Code 201.

## VI. SANCTION(S) OR ACTION(S) IMPOSED:

CODE: 201

Disallow Good Conduct Time: 27 days

Disciplinary Segregation: 30 days

Loss of Commissary Privilege: 120 days

## VII. REASON FOR EACH SANCTION OR ACTION TAKEN:

Fighting in a correctional institution inherently jeopardizes the security and good order of the institution. The rationale for the sanctions imposed in this case, therefore, is to punish the inmate for his misconduct, which is viewed as having an adverse effect on the security and orderly operation of the institution, as well as to deter future misconduct. Disciplinary segregation is imposed as punishment for the misconduct. Disallowed Good Conduct Time is imposed to demonstrate that engaging in misconduct will prolong inmate Leath's period of incarceration. Loss of commissary privileges is imposed to demonstrate that engaging in misconduct will result in the loss of pleasurable privileges while incarcerated.

VIII. APPEAL RIGHTS: XX The inmate has been advised of the findings, specific evidence relied on, sanction(s)/action(s) and reasons for the action. The inmate has been advised of the right to appeal this action within 20 calendar days under the Administrative Remedy Procedure. A copy of this report has been given to the inmate.

## IX. Discipline Hearing Officer

Printed Name

Signature

Date

B. Chambers, DHO

Delivered to Inmate:

*H. Owens* 7/13/16

Prescribed by F5270

Replaces BP-304(52) of JAN 88

DEFENDANT  
EXHIBIT

B

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JAMES LEATH,	)	
	)	
Plaintiff,	)	CIVIL NO. 3:2017-CV-1418
	)	
v.	)	
	)	
UNITED STATES, ET AL.,	)	
	)	
Defendants.	)	

**DECLARATION OF SIA JAMES FOSNOT**

1. I am currently employed by the Federal Bureau of Prisons (hereafter “BOP”), and assigned to the United States Penitentiary, Lewisburg, PA (hereafter “USP Lewisburg”), as the Special Investigative Agent (SIA). As part of my duties and responsibilities, I have access to inmates’ records, electronic data maintained on the BOP’s SENTRY computer system, Administrative Remedy data, and BOP Program Statements. I certify that the Attachments referenced herein are true and accurate to the best of my knowledge.

2. Records indicate Leath arrived at USP Lewisburg on October 5, 2015.

3. Upon Leath’s arrival at USP Lewisburg and again on October 14, 2015, a Special Investigative Supervisor (“SIS”) interview was completed. This type of interview is used to assist administration in identifying other inmates who may be a safety concern for the inmate being interviewed. See Attachment 1, Intake Screening Forms.

4. As noted on both forms, Leath expressed no safety concerns, nor did he indicate a need for separation from any class of inmates or any specific person.

5. Typically, and in accordance with Institution Supplement 5217.02B, Special Management Units, cell assignments are the responsibility of the Unit Team. However, in emergency situations where inmates need to be separated, custody staff can reassign them to another cell. See Attachment 2.

6. Although Leath was a Central Inmate Monitoring System ("CIMS") inmate, he and his cellmate were not assigned as separatees.

7. Both inmates shared a cell from April 24, 2016, until the incident on May 30, 2016. Neither expressed any safety concerns.

8. Furthermore, there is no knowledge or record of Leath or his cellmate expressing any concerns for their safety surrounding the May 30, 2016 incident.

9. Staff rely on information provided to them by inmates, regarding their safety concerns. If a threat is made, or a concern is reported to staff, the inmates involved will be separated until an investigation can be conducted.


10. Inmates can raise safety/security concerns with any staff at any time. If an inmate feels he cannot be housed with another inmate, he can notify staff who will forward the information for investigation. The inmates involved will be separated from each other pending the investigation.

11. Inmates who are involved in an altercation with each other are immediately made formal separatees.

I declare that the foregoing is true and correct and is given under penalty of perjury pursuant to 28 U.S.C. § 1746. I further declare that the documents attached to this declaration are true and accurate copies of documents maintained in the ordinary course of business by the Federal Bureau of Prisons and were created at or near the time of the occurrence of the matters reflected therein by someone with knowledge and were made by the Bureau of Prisons as a regular practice.

I am the custodian of the documents or am otherwise qualified to execute this certification, pursuant to Fed. R. Evid. 803(6) and 902(11). I declare that the foregoing is true and correct, and is given under penalty of perjury pursuant to 28 U.S.C. §1746.

Executed this 25th day of June 2019.

  
\_\_\_\_\_  
James Fosnot, SIA  
USP Lewisburg

DEFENDANT  
EXHIBIT

Attach. 1

SIS INMATE INTERVIEW  
USP Lewisburg SMU INITIAL SCREENING FORM

Date of interview: 10/5/2015

Inmate Name: <u>Leath, James</u>	Reg. No.: <u>47208-066</u>
Gang Affiliation: ( <u>Good</u> / Bad Standing) <u>None</u>	Separation Concerns: <u>None</u>

**Interview Questions:**

What institution placed you in this program?

CAA - For Assault & Disrupt of Court Order

Where are you from (hometown, neighborhood, etc.)?

Durham, NC

Do you belong to a gang, group, or organization? If so which (street/prison, neighborhood gang)?

Muslim

Are you active? Are you in good standing?

Yes

If yes, what rank, position, or title do you hold?

Shari' in the past

Would you consider yourself a person of influence?

Yes

If you are not active, are you willing to debrief?

No

Who do you have problems with?

Nobody

What is your nickname? Muslim name?

Jack, Jamal

Were you involved in any major incidents with other gangs/geographical/religious inmates?

NoHave you requested PC at another institution? Yes / NoHave you ever testified against anyone? If so is it on your PSI? Yes / No

Remarks:

James Leath  
Inmate Signature

Staff Witness Signature

[Signature]  
Interviewing Staff

FOIA EXEMPT



INMATE INTERVIEW  
QUAY SCREENING FORM

Date of interview: 10-14-15Date arrived at LEW: 10-5-15

Inmate Name: <u>Leath, James</u>	Reg. No.: <u>47208-066</u>
STG Gang Affiliation: (Good / Bad Standing) <u>Muslim</u>	Separation Concerns:
Other STG Information:	

Interview Questions:

Release date: Life

What institution placed you in this program?

CAA, assault officer

Where are you from (hometown, neighborhood, etc.)?

Phila.

Do you belong to a gang, group, or organization? If so which (street/prison, neighborhood gang)?

Muslim or Philly

Are you active? Are you in good standing?

yes

If yes, what rank, position, or title do you hold?

Would you consider yourself a person of influence?

Sharif in State

If you are not active, are you willing to debrief?

Who do you have problems with?

no

What is your nickname? Muslim name?

Tack

Were you involved in any major incidents with other gangs/geographical/religious inmates?

noHave you requested PC at another institution? YES/NOHave you ever testified against anyone? If so is it on your PSI? YES/NO

Inmate Signature

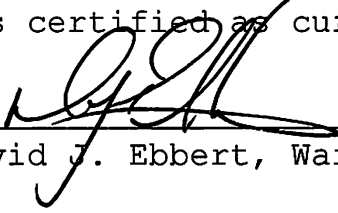
Robert [Signature] SIS Tech  
Interviewing Staff

FOI EXEMPT

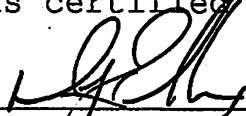
DEFENDANT  
EXHIBIT

Attach. 2

The attached USP Lewisburg Supplement:  
LEW 5217.02B, Special Management Units,  
was certified as current: October 5, 2018.

  
\_\_\_\_\_  
David J. Ebbert, Warden

The attached USP Lewisburg Supplement:  
LEW 5217.02B, Special Management Units,  
was certified as current: March 23, 2018

  
\_\_\_\_\_  
David J. Ebbert, Warden

Special Management Units  
LEW 5217.02B  
November 22, 2016



U.S. Department of Justice  
Federal Bureau of Prisons  
U.S. Penitentiary  
Lewisburg, PA 17837

## ***Institution Supplement***

1. PURPOSE AND SCOPE To implement local procedures for addressing operations and conditions for the Special Management Unit (SMU) at USP Lewisburg, Pennsylvania, pursuant to the Program Statement 5217.02, Special Management Units, dated August 9, 2016.
2. PROGRAM OBJECTIVE To establish operating procedures for the implementation of an efficient, safe and secure SMU program through the enforcement of sound correctional decisions to be carried out by staff at USP Lewisburg. This is a three phase program which begins with Level One and continues through Level Three. Advancement through the program will depend on the inmate's progression, with positive adjustment, resulting in the movement to the next level. With advancement through the levels, more privileges will become available to the inmate.
3. DIRECTIVES AFFECTED
  - a. Directive Referenced: Program Statement 5217.02, Special Management Units, (08/09/2016).
  - b. Directive Rescinded: Institution Supplement 5217.02, (09/22/2016).
4. STANDARDS REFERENCED: American Correctional Association, Standards for Adult Correctional Institutions, 4<sup>th</sup> Edition: 4-4276, 4-4277, 4-4283, 4-4287, 4-4288, 4-4290, 4-4292, 4-4295, 4-4296, 4-4297, 4-4299, 4-4300, 4-4301, 4-4363M, 4-4368M, 4-4491, 4-4497, 4-4498, 4-4510, and 4-4517. Performance Based Standards for Adult Local Detention facilities, 4<sup>th</sup> Edition: None. 2<sup>nd</sup> Edition Standards for Administration of Correctional Agencies: 2-CO-4A-01, 2-CO-4B-01, 2-CO-4B-04, 2-CO-4E-01, 2-CO-4F-01, 2-CO-5B-01, 2-CO-5C-01, 2-CO-5D-01, 2-CO-5E-01, 2-CO-5F-01. Standards for Correctional Training Academies: None.

Sensitive but Unclassified

1

Special Management Units  
LEW 5217.02B  
November 22, 2016

5. ADMISSION AND ORIENTATION PROCEDURES:

During the intake screening process, inmates designated to the SMU will receive a SMU Inmate Admission & Orientation (A&O) handbook. This handbook contains information specific to the SMU program, as well as information traditionally covered in A&O lectures. Additionally, A&O lectures are broadcast on FM frequency 88.5 every Wednesday at 8:30 a.m.

6. PROCEDURES

- a. Conditions of Confinement: Inmates will be assigned to a cell which ordinarily houses two occupants. Cell assignments will be the responsibility of the Unit Team, with direct oversight provided by the Unit Manager. Inmates will be accountable for maintaining acceptable levels of sanitation in their cells and or living areas.
- b. Personal Hygiene Items: Inmates have access to a wash basin and toilet. Hygiene items are provided to inmates; however, limited hygiene items are available for purchase through the inmate commissary. Inmates have the opportunity to shower at least three times per week.
- c. Other Supplies: Writing paper, writing instruments, and envelopes will be issued by Correctional Services staff.
- d. Linen Exchange: Inmates will be issued a laundry bag with an adequate supply of clothing, towels and linens. Specific procedures for linen exchange are addressed in the SMU Handbook which is issued upon arrival. The Warden may impose alternative clothing and/or linen for seven days, for inmates who destroy or alter institutional clothing or linen.
- e. Meals: Inmates in Level One through Level Three will receive three meals per day, via satellite feeding.
- f. Recreation: Inmates will be offered the opportunity to exercise outside their individual quarters for at least five hours per week,

Sensitive but Unclassified

2

Special Management Units  
LEW 5217.02B  
November 22, 2016

ordinarily in one-hour periods on different days. The Warden may deny these exercise periods for up to one week at a time if it is determined that an inmate's recreation jeopardizes the safety, security, or orderly operation of the institution.

- g. Personal Property: Inmates in Level One through Level Three will have limited personal property. Additional personal property limitations may be imposed by the Warden to maintain institution security.
- h. Commissary: Commissary items will be available to inmates on all three levels of the program. The East and West side housing units will shop commissary on a bi-weekly basis. Inmates on commissary restrictions will only be permitted to purchase postage stamps, certain hygiene items, and over the counter medications.
- i. Visiting: Inmates must submit a written request to the Unit Manager at least two weeks in advance of the expected visit. Visiting request forms must be requested through the Unit Counselor.

Provided there are no visiting restrictions as the result of disciplinary or other reasons, visitation for inmates in Levels One through Three will be facilitated via video visiting and will only be available to immediate family members which include parents or (legal guardians which must be verified), siblings, offspring, spouses, and grandparents. The relationship must be verified.

As the availability of video equipment is limited, visits will be limited to one hour per inmate. Visits will be scheduled in accordance with availability. All SMU visiting will be conducted on the weekends with a memorandum of approval.

- j. Correspondence and Telephones: Written correspondence as outlined in Program Statement 5265.14, Correspondence, dated

Sensitive but Unclassified

3

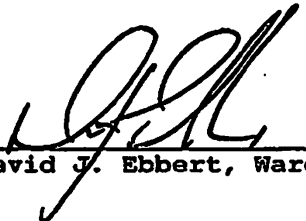
Special Management Units  
LEW 5217.02B  
November 22, 2016

April 5, 2011, will be permitted. Incoming special mail will be delivered by Unit Team staff. Outgoing special mail will be collected by staff for mailing on a daily basis. Inmates in the SMU may use the telephones in their assigned housing unit from 6:00 a.m. until 10:00 p.m., provided they are not on telephone restrictions. Inmates in Level One will be permitted two 15-minute telephone calls per month. Inmates in Level Two will be permitted four 15-minute telephone calls per month. Inmates in Level Three will be permitted fifteen phone calls per month not to exceed 150 minutes.

- k. Legal Phone Calls: Unit Staff will facilitate legal phone calls according to national policy.
- l. Legal Activities: Housing Units will be equipped with an Electronic Law Library (ELL). Inmates must submit a written request to staff to use the ELL. Priority will be given to inmates who demonstrate an imminent court deadline. Otherwise, use of the ELL will be based on the order of each request. A log will be maintained in each housing unit equipped with an ELL for accountability. Requested materials will be completed and delivered based upon the needs of the inmate population and the availability of staff and other resources.
- m. Medical Care: Medical staff will make rounds in each SMU housing units on a daily basis. Inmates have the ability to sign up for sick call Monday through Friday (excluding holidays), and have access to emergency medical care 24 hours a day, seven days a week.
- n. Mental Health Care: Inmates will be seen at least once every 30 days by Psychology Services Staff for a mental health review. Inmates with psychiatric or other mental health needs will be seen as needed to meet their needs.
- o. Religious Activities: Chaplains will be available for counseling and accommodation of religious needs on a one-on-one basis.

Special Management Units  
LEW 5217.02B  
November 22, 2016

- p. 30-Day Condition Review: The Unit Correctional Counselor will conduct 30-day reviews in accordance with National Policy utilizing form BP-A0951, Special Management Unit (SMU) 30 Day Conditions Review. The Unit Manager will be responsible for oversight of this review.
- q. Housing Unit Daily Record: The housing unit officer completes Form BP-A0950, Housing Unit Daily Record, daily. All inmates being removed from a secure area and/or escorted between secure areas will be pat searched to include the use of a metal detector and will be subjected to visual searches as outlined in Program Statement 5521.06, Searches of Housing Units, Inmates, and Inmate Work Areas.
7. SMU PROGRESSION AND PROGRAM COMPLETION: Inmates must complete SMU programming for the level they are assigned regardless of their housing unit assignment. Inmates who successfully complete the program will be managed in accordance with the Level Three - Level Progression / Redesignation Criteria set forth in the SMU Program Statement.
8. OFFICE OF PRIMARY INTEREST: Correctional Services and Correctional Programs.
9. EFFECTIVE DATE: Supplement is effective upon issuance.

  
\_\_\_\_\_  
David J. Ebbert, Warden





U.S. Department of Justice  
Federal Bureau of Prisons

DEFENDANT  
EXHIBIT

Attach. 3

## PROGRAM STATEMENT

OPI: CPD/CSB

NUMBER: 5270.11

DATE: November 23, 2016

# Special Housing Units

/s/

Approved: Thomas R. Kane

Acting Director, Federal Bureau of Prisons

## 1. PURPOSE AND SCOPE

### § 541.20 Purpose.

This subpart describes the Federal Bureau of Prisons' (Bureau) operation of special housing units (SHU) at Bureau institutions. The Bureau's operation of SHUs is authorized by 18 U.S.C. 4042(a)(2) and (3).

a. **Program Objectives.** The expected results of this program are:

- Special Housing Unit placement should always serve a specific penological purpose.
- Inmates are housed in the least restrictive setting necessary to ensure their own safety, as well as the safety of staff, other inmates, and the public.
- A safe and orderly environment will be provided for staff and inmates.
- Living conditions for inmates in disciplinary segregation and administrative detention will meet or exceed applicable standards.
- Accurate and complete records will be maintained on conditions and events in special housing units.

Federal Regulations from 28 CFR are shown in this type.

Implementing instructions are shown in this type.

b. **Summary of Changes**

*Policy Rescinded*

P5270.10 Special Housing Units (7/29/11)

Memorandum from Assistant Director Scott Dodrill, Secure Housing Unit Operations, dated 3/2/10

Memorandum from Assistant Director Frank Strada, Special Housing Unit Training, dated 4/17/2015

The following changes have been incorporated into the policy:

- Several changes have been implemented to adhere to Department of Justice recommendations regarding guiding principles.
- Training standards have been updated.
- Alternate Clothing guidance is provided.
- Objectives were defined.
- Forms have been updated.
- Circumstances under which pregnant inmates can be placed in SHU have been defined.
- Psychological concerns regarding SHU placements have been addressed.

c. **Institution Supplement.** None required. Should local facilities make any changes outside the required changes in the national policy or establish any additional local procedures to implement the national policy, the local Union may invoke to negotiate procedures or appropriate arrangements.

2. **SPECIAL HOUSING UNITS (SHUS)**

**§ 541.21 Special Housing Units (SHUs).**

**Special Housing Units (SHUs) are housing units in Bureau institutions where inmates are securely separated from the general inmate population, and may be housed either alone or with other inmates. Special housing units help ensure the safety, security, and orderly operation of correctional facilities, and protect the public, by providing alternative housing assignments for inmates removed from the general population.**

For inmates with suspected or confirmed contagious diseases, refer to the Program Statements **Intake Screening, Infectious Disease Management, and Patient Care**, and, when applicable, the Pandemic Influenza Plan.

Alternative segregation housing arrangements outside the Special Housing Unit itself must be proposed by the Warden to the Regional Director, and ultimately approved by the Assistant Director, Correctional Programs Division, before activation. Alternative segregation housing of this type will only be approved as SHU overflow for inmates in administrative detention or disciplinary segregation status. Operation of such alternative segregation housing requires compliance with all Bureau rules, policies, staffing, and post orders for operating Special Housing Units.

General population inmates are not permitted to enter a secure housing unit to interact with inmates for dispute resolutions, intelligence gathering, or security threat group/disruptive group meetings. This also applies to removing inmates from a secure housing unit to meet with inmates in general population. Institution staff must rely on trained investigative techniques, link analysis, and other means of gathering information without allowing inmates into a secure housing setting to conduct face-to-face meetings with one another.

Inmates who are pregnant, who are post-partum (up to 8 weeks), who recently had a miscarriage (up to 4 weeks), or who recently had a terminated pregnancy (up to 4 weeks) should not be placed in restrictive housing. In rare situations, these inmates may be placed in restrictive housing as a temporary response to behavior that poses a serious and immediate risk of physical harm or to ensure the safety, security, and orderly running of a BOP facility.

### **3. STATUS WHEN PLACED IN THE SHU**

#### **§ 541.22 Status when placed in the SHU.**

**When placed in the SHU, you are either in administrative detention status or disciplinary segregation status.**

**(a) *Administrative detention status.* Administrative detention status is an administrative status which removes you from the general population when necessary to ensure the safety, security, and orderly operation of correctional facilities, or protect the public. Administrative detention status is non-punitive, and can occur for a variety of reasons.**

The Warden may impose temporarily more restrictive conditions on an inmate (which may be in an area ordinarily set aside for disciplinary segregation and therefore requires the withdrawal of privileges ordinarily afforded in administrative detention status, until a hearing before the DHO can be held) who:

- Is causing a serious disruption (threatening life, serious bodily harm, or property) in administrative detention.
- Cannot be controlled within the physical confines of administrative detention.
- Upon advice of qualified health personnel, does not require confinement in the institution hospital if the institution has one for mental or physical treatment, or who would ordinarily be housed in the institution hospital for mental or physical treatment, but who cannot safely be housed there because the hospital does not have a room or cell with adequate security provisions.

Inmate confined under these more restrictive conditions must have their status reviewed and fully documented on a new BP-A0321 every 5 days.

The Warden may delegate this authority no further than to the official in charge of the institution when the move is necessary.

A fully documented report Special Housing Unit – Temporary Restrictive Housing Order (BP-A0321) is maintained in the Inmate Central File.

**(b) *Disciplinary segregation status.* Disciplinary segregation status is a punitive status imposed only by a Discipline Hearing Officer (DHO) as a sanction for committing a prohibited act(s).**

#### **4. ADMINISTRATIVE DETENTION STATUS**

##### **§ 541.23 Administrative detention status.**

**You may be placed in administrative detention status for the following reasons:**

**(a) *Pending Classification or Reclassification.* You are a new commitment pending classification or under review for Reclassification.**

This includes newly arrived inmates from the Bus, Airlift, and U.S. Marshals Service.

**(b) *Holdover Status.* You are in holdover status during transfer to a designated institution or other destination.**

**(c) *Removal from general population.* Your presence in the general population poses a threat to life, property, self, staff, other inmates, the public, or to the security or orderly running of the institution and:**

- (1) Investigation.** You are under investigation or awaiting a hearing for possibly violating a Bureau regulation or criminal law;
- (2) Transfer.** You are pending transfer to another institution or location;
- (3) Protection cases.** You requested, or staff determined you need, administrative detention status for your own protection; or
- (4) Post-disciplinary detention.** You are ending confinement in disciplinary segregation status, and your return to the general population would threaten the safety, security, and orderly operation of a correctional facility, or public safety.

Staff must obtain approval from a Lieutenant or the Captain before placing an inmate in Administrative Detention status pending investigation of a disciplinary violation. When considering approval for Administrative Detention, the seriousness of the violation should be reviewed.

In making Special Housing determination, officials should consider the seriousness of the alleged offense, including whether the offense involved violence, involved escape, or posed a threat to institutional safety or the orderly running of the institution.

If an inmate is terminating confinement in disciplinary segregation and staff determine placement in the general population is not prudent, the inmate may be placed in administrative detention status if warranted by the conditions established above. The decision for post-disciplinary detention must be based on a separate review, not solely on the initial hearing before the DHO that resulted in the inmate's placement in disciplinary segregation.

The Segregation Review Official (SRO) advises the inmate of this determination and the reason for the action via an Administrative Detention Order (ADO; BP-A0308). The Warden or shift supervisor can order immediate segregation. Ordinarily, within 24 hours of an inmate's placement in Administrative Detention, a supervisory official not involved in the initial placement will review and approve the placement decision.

Except for pretrial inmates or inmates in a control unit program, staff ordinarily, within 90 days of an inmate's placement in post-disciplinary detention, must either return the inmate to the general inmate population or request a transfer of the inmate to a more suitable institution using Form EMS-A409, Request for Transfer/Application of Management Variable. The Regional Correctional Programs Administrator will be copied on the completed form.

The institution must generate a regional referral for each inmate in post-disciplinary detention in excess of 90 days that includes case-specific information stating why the inmate is not appropriate for return to general population or immediate transfer. The Regional Director must submit a recommendation for post-disciplinary detention in excess of 90 days and every additional 60 days thereafter to the Assistant Director, Correctional Programs Division (CPD) for concurrence. Distribution includes a copy to the GroupWise mailbox BOP-CPD/DHO~.

The institution generates an ADO that cites the same case-specific information and includes documentation indicating that the SRO has advised the inmate of the basis for the extended stay.

## 5. DISCIPLINARY SEGREGATION STATUS

### § 541.24 Disciplinary segregation status.

**You may be placed in disciplinary segregation status only by the DHO as a disciplinary sanction.**

## 6. NOTICE RECEIVED WHEN PLACED IN THE SHU

### § 541.25 Notice received when placed in the SHU.

**You will be notified of the reason(s) you are placed in the SHU as follows:**

The Lieutenant or other correctional supervisor prepares an Administrative Detention Order (ADO; BP-A0308). The specific reason for placement in SHU must be supported by objective evidence and clearly articulated in the narrative section of the ADO. A new ADO is required if an inmate's status in administrative detention changes. Inmates will remain in SHU for no longer than necessary to address the specific reason for placement. Distribution of copies is indicated on the ADO.

**(a) *Administrative detention status.* When placed in administrative detention status, you will receive a copy of the administrative detention order, ordinarily within 24 hours, detailing the reason(s) for your placement. However, when placed in administrative detention status pending classification or while in holdover status, you will not receive an administrative detention order.**

Pending classification refers to newly arrived inmates.

**(b) *Disciplinary segregation status.* When you are to be placed in disciplinary segregation status as a sanction for violating Bureau regulations, you will be informed by the DHO at the end of your discipline hearing.**

## 7. REVIEW OF PLACEMENT IN THE SHU

### § 541.26 Review of placement in the SHU.

Your placement in the SHU will be reviewed by the Segregation Review Official (SRO) as follows:

(a) *Three day review.* Within three work days of your placement in administrative detention status, not counting the day you were admitted, weekends, and holidays, the SRO will review the supporting records. If you are in disciplinary segregation status, this review will not occur.

For reviews of Protection Cases see section 9.

(b) *Seven day reviews.* Within seven continuous calendar days of your placement in either administrative detention or disciplinary segregation status, the SRO will formally review your status at a hearing you can attend. Subsequent reviews of your records will be performed in your absence by the SRO every seven continuous calendar days thereafter.

(c) *Thirty day reviews.* After every 30 calendar days of continuous placement in either administrative detention or disciplinary segregation status, the SRO will formally review your status at a hearing you can attend.

(d) *Administrative remedy program.* You can submit a formal grievance challenging your placement in the SHU through the Administrative Remedy Program, 28 CFR part 542, subpart B.

28 CFR Part 542, Subpart B, refers to the Program Statement **Administrative Remedy Program**.

The SRO refers to the individual at each Bureau institution assigned to review the status of each inmate housed in disciplinary segregation and administrative detention. The SRO must conduct the required reviews. The SRO does not have to be a DHO. Ordinarily, the SRO is the Captain (may be delegated to a Lieutenant responsible for supervision of the SHU). This review must include:

- A review of the inmate's records while in the SHU (Special Housing Unit Record, BP-A0292).
- All available memoranda from staff (including psychology staff).

- All available investigatory memoranda.
- The SRO completes a Special Housing Review (BP-A0295) after review of the Special Housing Unit Record and other relevant documentation. Maintain permanent logs.

A multidisciplinary team that includes, at a minimum, institution executive staff, Correctional Services, unit staff, Health Services, and psychology staff reviews the inmate's initial and ongoing placement in SHU. This committee meets on a regular basis, ordinarily weekly.

## **8. PROTECTION CASE – PLACEMENT IN ADMINISTRATIVE DETENTION STATUS**

### **§ 541.27 Protection case – placement in Administrative Detention status.**

**You may be placed in administrative detention status as a protection case in the following circumstances.**

- (a) *Victim of inmate assault or threats.* You were the victim of an inmate assault, or are being threatened by other inmates, including threats of harm if you do not act in a certain way, for example, threats of harm unless you engage in sexual activity.**
- (b) *Inmate informant.* Your safety is threatened because you provided, or are perceived as having provided, information to staff or law enforcement authorities regarding other inmates or persons in the community.**
- (c) *Inmate refusal to enter general population.* You refuse to enter the general population because of alleged pressures or threats from unidentified inmates, or for no expressed reason.**
- (d) *Staff concern.* Based on evidence, staff believe your safety may be seriously jeopardized by placement in the general population.**

When an inmate is placed in Administrative Detention for an investigative period and the threat is verified, correctional officials should seek alternative housing, by transferring the threatened inmate either to the general population of another institution or to a special-purpose housing unit for inmates who face similar threats, with conditions comparable to those of the general population.

When the inmate poses such security risk that even a special-purpose housing unit is insufficient to ensure the inmate's safety and the safety of staff, other inmates, and the public, the inmate



may be housed in more restrictive conditions. The inmate's placement should be regularly reviewed to monitor any medical or mental health deterioration and to determine whether the security risks have subsided.

**9. PROTECTION CASE – REVIEW OF PLACEMENT IN THE SHU**

**§ 541.28 Protection case – review of placement in the SHU.**

**(a) *Staff investigation.*** Whenever you are placed in the SHU as a protection case, whether requested by you or staff, an investigation will occur to verify the reasons for your placement.

**(b) *Hearing.*** You will receive a hearing according to the procedural requirements of § 541.26(b) within seven calendar days of your placement. Additionally, if you feel at any time your placement in the SHU as a protection case is unnecessary, you may request a hearing under this section.

**(c) *Periodic review.*** If you remain in administrative detention status following such a hearing, you will be periodically reviewed as an ordinary administrative detention case under § 541.26.

When an inmate is placed in administrative detention for protection, the Warden or designee (ordinarily the Captain), must review the placement within two work days of the placement to determine if continued protective custody is necessary. This review includes documents that led to the inmate being placed in protective custody status and any other documents pertinent to the inmate's protection.

**10. STAFF VERIFICATION OF NEED FOR PROTECTION**

**§ 541.29 Staff verification of need for protection.**

**If a staff investigation verifies your need for placement in the SHU as a protection case, you may remain in the SHU or be transferred to another institution where your status as a protection case may not be necessary, at the Warden's discretion.**

## 11. LACK OF VERIFICATION OF NEED FOR PROTECTION

### § 541.30 Lack of verification of need for protection.

If a staff investigation fails to verify your need for placement in the SHU as a protection case, you will be instructed to return to the general population. If you refuse to return to the general population under these circumstances, you may be subject to disciplinary action.

Inmates refusing placement in general population should be maintained in Administrative Detention status and, if appropriate, initiate disciplinary action.

## 12. CONDITIONS OF CONFINEMENT IN THE SHU

### § 541.31 Conditions of confinement in the SHU.

Your living conditions in the SHU will meet or exceed standards for healthy and humane treatment, including, but not limited to, the following specific conditions:

- (a) *Environment.* Your living quarters will be well-ventilated, adequately lighted, appropriately heated, and maintained in a sanitary condition.
- (b) *Cell Occupancy.* Your living quarters will ordinarily house only the amount of occupants for which it is designed. The Warden, however, may authorize more occupants so long as adequate standards can be maintained.
- (c) *Clothing.* You will receive adequate institution clothing, including footwear, while housed in the SHU. You will be provided necessary opportunities to exchange clothing and/or have it washed.

The Warden's written approval is required prior to placing an inmate on alternate clothing/linen status. The Warden or Acting Warden may not delegate the authority to place an inmate in alternate clothing/linen (e.g., paper). The memorandum must include, at a minimum, the signature of the Warden, Health Services Administrator, and a psychologist. A written explanation of the reason(s) for alternate clothing/linen status must be included in the Warden's authorization. This status will be reviewed every 3 days. Inmates will not be authorized to remain in alternate clothing/linen for more than 6 days. After 6 days, the inmate is removed from the alternate clothing/linen status, or, if necessary, a new authorization is generated. Inmates must be offered a change of clothing daily and the clothing must be adequate to the temperature in the SHU.

Alternate clothing/linen is authorized when an inmate alters, destroys, or uses a clothing/linen issued article in a manner that poses a threat to safety, security, or good order of the SHU or to herself/himself, other inmates, or staff.

Alternate clothing/linen will not be used as punishment or during external transportation (i.e., outside the secure perimeter). Inmates that originate from BOP facilities will not be transported in alternate clothing for any reason. Ordinarily, inmates with serious mental illness and those with identified chronic or acute suicide risk are not placed in paper clothing. Paper clothing is not used on suicide watch.

**(d) *Bedding.* You will receive a mattress, blankets, a pillow, and linens for sleeping. You will receive necessary opportunities to exchange linens.**

If the institution issues the combination mattress with a pillow incorporated, a separate pillow will not be issued. Staff may remove an inmate's mattress during non-sleeping daytime hours as a "loss of privilege" sanction imposed by the Unit Discipline Committee (UDC)/DHO. Removal of an inmate's mattress is otherwise prohibited, absent life or safety concerns as specifically documented and authorized by the Warden, or his/her designee.

**(e) *Food.* You will receive nutritionally adequate meals.**

Refer to the Program Statement **Food Service Manual** for standards and guidelines for feeding inmates in Special Housing Units. When an inmate uses food products, Food Service items, or the feeding process itself in a manner that poses a threat to the safety, security, or good order of the institution, or to the inmate him-/herself, other inmates, or staff, a written explanation of the reason(s) for alternate meal status must be included in the CEO's authorization and approved by Health Services. The Warden's written approval is required prior to placing an inmate on alternative meal status. After 7 days, the inmate is removed from the alternative meal service or, if necessary, a new authorization is generated.

**(f) *Personal hygiene.* You will have access to a wash basin and toilet. You will receive personal items necessary to maintain an acceptable level of personal hygiene, for example, toilet tissue, soap, toothbrush and cleanser, shaving utensils, etc. You will ordinarily have an opportunity to shower and shave at least three times per week. You will have access to hair care services as necessary.**

**(g) *Exercise.* You will receive the opportunity to exercise outside your individual quarters at least five hours per week, ordinarily on different days in**

**one-hour periods. You can be denied these exercise periods for a week at a time by order of the Warden if it is determined that your use of exercise privileges threatens safety, security, and orderly operation of a correctional facility, or public safety.**

If weather, resources, and staffing permit, the inmate shall receive outdoor exercise periods. “Week” means one calendar week.

Plans for increasing recreation time are developed locally for each institution in an effort to provide additional out of cell time. These plans will be developed considering the views and input from the local union.

The following factors must be considered when developing plans to increase out of cell time for recreation:

- Inmate to correctional services staff ratio in SHU.
- Total number of inmates in SHU.
- Limitations of the physical plant and infrastructure, especially regarding spaces used for recreation.

When an institution possesses the resources identified within the three factors listed above to implement these plans, it should do so.

A memorandum for the plan will be generated. The Warden will review the plan at least annually and make adjustments as necessary.

Restriction or denial of exercise is not used as punishment. The Warden or Acting Warden may not delegate the authority to restrict or deny exercise. Exercise periods are only restricted or denied when the inmate’s activities pose a threat to the safety, security, and orderly operation of a correctional facility, or health conditions of the unit.

The appropriate staff member recommends recreation restrictions to a supervisor who then makes the recommendation to the Warden in writing. The recommending staff member describes briefly the reason for recommending a restriction and its proposed extent. The Warden reviews the recommendation and approves, modifies, or denies the restriction. If the Warden approves a restriction, it must be based on the conclusion that the inmate’s actions pose a threat to the safety, security, and orderly operation of a correctional facility or health conditions of the unit.

**(h) *Personal property.* In either status, your amount of personal property may be limited for reasons of fire safety or sanitation.**

**(1) In administrative detention status you are ordinarily allowed a reasonable amount of personal property and reasonable access to the commissary.**

**(2) In disciplinary segregation status your personal property will be impounded, with the exception of limited reading/writing materials, and religious articles. Also, your commissary privileges may be limited.**

(3) Personal property ordinarily allowed in administrative detention (if not otherwise a threat to institution security) includes:

- Bible, Koran, or other scriptures (1).
- Books, paperback (5).
- Eyeglasses, prescription (2).
- Legal material (see the Program Statement **Inmate Legal Activities**).
- Magazine (3).
- Mail (10).
- Newspaper (1).
- Personal hygiene items (1 of each type) (no dental floss or razors\*).
- Photographs (25).
- Authorized religious medals/headgear (e.g., kufi).
- Shoes, shower (1).
- Shoes, other (1).
- Snack foods without aluminum foil wrappers (5 individual packs).
- Soft drinks, powdered (1 container).
- Stationery/stamps (20 each).
- Wedding band (1).
- Radio with ear plugs (1).
- Watch (must not have metal backing) (1).

\*Razors are controlled by SHU staff. Only disposable razors are used.

The Warden may modify the quantity and type of personal property allowed. Personal property may be limited or withheld for reasons of security, fire safety, or housekeeping.

Unauthorized use of any authorized item may result in the restriction of the item. If there are numerous misuses of an authorized item, the Warden may determine that the item will not be issued in the SHU.

**Reading Material.** The inmate will receive a reasonable amount of non-legal reading material, not to exceed five books per inmate at any one time, on a circulating basis. Staff shall provide the inmate the opportunity to possess religious scriptures of the inmate's faith.

**(i) Correspondence.** You will receive correspondence privileges according to part 540, subpart B.

Part 540, Subpart B, refers to the Program Statement **Correspondence**.

**(j) Telephone.** You will receive telephone privileges according to part 540, subpart I.

Part 540, Subpart I, refers to the Program Statement **Inmate Telephone Regulations**.

If the inmate has not been restricted from telephone use as the result of a specific disciplinary sanction, he/she is allowed to make one telephone call per month. Meaning, the inmate should receive a phone call within the first 30 calendar days of placement in the Special Housing Unit and within every 30 calendar days thereafter.

**(k) Visiting.** You will receive visiting privileges according to part 540, subpart D.

Part 540, Subpart D, refers to the Program Statement **Visiting Regulations**.

**(l) Legal activities.** You will receive an opportunity to perform personal legal activities according to part 543, subpart B.

Part 543, Subpart B, refers to the Program Statement **Inmate Legal Activities**.

**(m) Staff monitoring.** You will be monitored by staff assigned to the SHU, including program and unit team staff.

Program staff, including unit staff, arrange to visit inmates in a SHU within a reasonable time after receiving the inmate's request.

In addition to direct supervision by the unit officer, qualified health personnel and one or more responsible officers the Warden designates (ordinarily the Institution Duty Officer) visit each segregated inmate daily, including weekends and holidays. A Lieutenant must visit the SHU during each shift to ensure all procedures are followed.

Duress buttons, if present, will be utilized only for emergency and/or life-threatening situations, to include health-related issues. The use of the duress button for anything other than an emergency and/or life-threatening situation is subject to disciplinary action.

**(n) *Programming activities.* In administrative detention status, you will have access to programming activities to the extent safety, security, orderly operation of a correctional facility, or public safety are not jeopardized. In disciplinary segregation status, your participation in programming activities, e.g., educational programs, may be suspended.**

All out of cell time will be recorded in BP-A0292, Special Housing Unit Record.

**(o) *Administrative Remedy Program.* You can submit a formal grievance challenging any aspect of your confinement in the SHU through the Administrative Remedy Program, 28 CFR part 542, subpart B.**

28 CFR Part 542, Subpart B, refers to the Program Statement **Administrative Remedy Program**.

### **13. MEDICAL AND MENTAL HEALTH CARE IN THE SHU**

#### **§ 541.32 Medical and mental health care in the SHU.**

**(a) *Medical care.* A health services staff member will visit you daily to provide necessary medical care. Emergency medical care is always available.**

While in a SHU, inmates may continue taking their prescribed medications.

**(b) *Mental health care.* After every 30 calendar days of continuous placement in either administrative detention or disciplinary segregation status, mental health staff will examine you, including a personal interview. Emergency mental health care is always available.**

Generally, an inmate who has been identified by Psychology/Health Services as a Care-3 (MH), Care-4 (MH), psychology alert in SENTRY, or identified on the monthly SHU advisory should not be placed in Special Housing unless he/she presents an immediate and/or serious danger to self, staff, or the orderly running of a facility.

If an inmate who has been identified by Psychology/Health Services as a Care-3 (MH), Care-4 (MH), psychology alert in SENTRY, or identified on the monthly SHU advisory (Hot List), is placed in Special Housing, psychology services should be notified and conduct a mental health

evaluation within 24 hours of placement. Staff should conduct a psychiatric or psychological assessment, including a personal interview, when administrative detention continues beyond 30 days. The assessment, submitted to the SRO in a written report with a copy to the inmate's central file, addresses:

- The inmate's adjustment to surroundings.
- The threat the inmate poses to self, staff, and other inmates.

Staff conduct a similar psychiatric or psychological assessment and report at 30-day intervals should detention continue for an extended period.

#### 14. **RELEASE FROM THE SHU**

##### **§ 541.33 Release from the SHU.**

**(a) *Administrative detention status.* You will be released from administrative detention status when the reasons for your placement no longer exist.**

**(b) *Disciplinary segregation status.* You will be released from disciplinary segregation status after satisfying the sanction imposed by the DHO. The SRO may release you earlier if it is determined you no longer require disciplinary segregation status.**

Ordinarily, inmates nearing the end of their term of incarceration will not be placed in SHU, except when their presence in General Population threatens the safety, security, or the orderly running of a BOP facility.

Every effort should be made to avoid releasing an inmate directly from SHU to the community. If the inmate remains in SHU within 180 days of release, options to release the inmate to less restrictive settings should be considered. If a less restrictive setting is not possible, the inmate will receive targeted reentry programming to prepare for return to the community.

A clear plan for returning the inmate to less restrictive conditions will be developed and is ordinarily shared with the inmate.

The SRO may not increase any previously imposed sanction(s). When considering release from disciplinary segregation, the SRO first consults with the Captain and must notify the Discipline Hearing Officer (DHO) of the inmate's release from disciplinary segregation before satisfying the imposed sanction.



## 15. TRAINING

Completion of quarterly training will be required for staff assigned to SHU prior to the start of each new quarter, regardless of how many times a staff member has completed the training. When assignment to a SHU post is known sufficiently in advance, each staff member should be afforded a reasonable amount of duty time to complete the training. For instances when last-minute assignments to the SHU occur, the employer must advise the staff of the general requirements of a SHU post and answer any questions.

This training session may include, but is not limited to, search procedures, escort procedures, application of restraints, use of force, orderly supervision, cell/unit sanitation, emergency response, suicide prevention, and dealing with mentally ill inmates, as well as other security procedures related to the unit. If this in-person training is completed, a training sheet will be completed documenting the training, and will be routed to the Captain and Human Resources Department for retention.

## 16. AGENCY'S ACA ACCREDITATION PROVISIONS

- 4<sup>th</sup> Edition Standards for Adult Correctional Institutions: 4-4133, 4-4235, 4-4249, 4-4250, 4-4251, 4-4252, 4-4253, 4-4254, 4-4255, 4-4256, 4-4258, 4-4260, 4-4261, 4-4262, 4-4263, 4-4264, 4-4265, 4-4266, 4-4267, 4-4268, 4-4269, 4-4270, 4-4271, 4-4272, and 4-4273.
- 4<sup>th</sup> Edition Performance-Based Standards for Adult Local Detention Facilities: 4-ALDF-2A-44, 4-ALDF-2A-45, 4-ALDF-2A-46, 4-ALDF-2A-47, 4-ALDF-2A-48, 4-ALDF-2A-49, 4-ALDF-2A-50, 4-ALDF-2A-51, 4-ALDF-2A-53, 4-ALDF-2A-55, 4-ALDF-2A-56, 4-ALDF-2A-57, 4-ALDF-2A-58, 4-ALDF-2A-59, 4-ALDF-2A-60, 4-ALDF-2A-61, 4-ALDF-2A-62, 4-ALDF-2A-63, 4-ALDF-2A-64, 4-ALDF-2A-65, and 4-ALDF-2A-66.

## REFERENCES

### *Program Statements*

P1315.07	Inmate Legal Activities (11/5/99)
P1330.18	Administrative Remedy Program (1/6/14)
P4700.06	Food Service Manual (9/3/11)
P5100.08	Inmate Security Designation and Custody Classification (9/12/06)
P5212.07	Control Unit Programs (2/20/01)
P5264.08	Inmate Telephone Regulations (1/24/08)
P5265.14	Correspondence (4/5/11)
P5267.09	Visiting Regulations (12/10/15)
P5270.09	Inmate Discipline Program (7/8/11)
P6031.04	Patient Care (6/3/14)

P5270.11 11/23/2016 **Federal Regulations are shown in this type.** Implementing instructions: this type. 17

P6340.04 Psychiatric Services (1/15/05)  
P6360.01 Pharmacy Services (1/15/05)

*BOP Forms*

BP-A0292 Special Housing Unit Record  
BP-A0295 Special Housing Review  
BP-A0308 Administrative Detention Order  
BP-A0321 Special Housing Unit – Temporary Restrictive Housing Order

*Records Retention Requirements*

Requirements and retention guidance for records and information applicable to this program are available in the Records and Information Disposition Schedule (RIDS) on Sallyport.

DEFENDANT  
EXHIBIT

C

1 UNITED STATES DISTRICT COURT  
2 FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

3 JAMES LEATH,

4 Plaintiff,

5 vs.

Case No.: 3:17-CV-1418

6 UNITED STATES OF AMERICA,

7 Defendant.  
8  
9 \_\_\_\_\_/

10  
11  
12 VIDEO CONFERENCE DEPOSITION OF JAMES LEATH

13 Wednesday, November 14, 2018

14 10:15 a.m.  
15  
16  
17

18 Taken in the offices of:

19 USP ATWATER

20 1 Federal Way

21 Atwater, California  
22  
23  
24

25 REPORTED BY: KAREN A. AUFDERMAUR, CSR 10919

1 APPEARANCES VIA TELECONFERENCE:

2 FOR PLAINTIFF:

3 LAW OFFICES OF JONATHAN J. SOBEL  
4 BY: JONATHAN J. SOBEL, ATTORNEY AT LAW  
1500 Walnut Street, Suite 2000  
Philadelphia, PA 19102  
5 T: 215.735.7535  
6 mate98@aol.com

7 FOR DEFENDANT:

8 UNITED STATES DEPARTMENT OF JUSTICE  
9 BY: RICHARD D. EULISS, ASSISTANT UNITED STATES  
ATTORNEY  
228 Walnut Street  
10 Harrisburg, PA 17101  
T: 717.221.4482  
11 Richard.D.Euliss@usdoj.gov

12 ALSO PRESENT:

13 Susan Albert, Paralegal Specialist  
14 Cristina M. Guthrie, Paralegal Specialist  
F. Haskett, Guard  
15 D. Coggins, Guard  
16 Karen A. Aufdermaur, Reporter

17 ---o0o---

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

INDEX OF EXAMINATIONS

BY:	PAGE
Mr. Euliss	4
Mr. Sobel	40

---o0o---

INDEX OF EXHIBITS

(No exhibits were marked.)

1 WEDNESDAY, NOVEMBER 14, 2018, ATWATER, CALIFORNIA

2 10:15 A.M.

3 \* \* \*

4 JAMES LEATH,

5 having been duly sworn, was examined and testified  
6 as follows:

7  
8 EXAMINATION

9 BY MR. EULISS:

10 Q. Hello, Mr. Leath. My name is Richard Euliss. I  
11 just want to test the audio. If you could just give me an  
12 affirmative yes if you can hear me.

13 A. I can hear you. Yes, I can hear it.

14 Q. And it turns out I can hear you. Okay. Great.  
15 So again I'm an assistant U.S. attorney out here in  
16 Harrisburg and I represent the United States in the case  
17 that you have filed. I think you can see on your screen  
18 your attorney, Jonathan Sobel, is appearing remotely out  
19 in Philadelphia. Can you see him?

20 A. I think he's on the left, on my left. Or, no, on  
21 his right and I'm on my left corner in the -- in a corner.

22 Q. Okay.

23 A. It's two --

24 Q. Just want to make sure --

25 A. It looks like it's two women beside him, one

1       beside. Each woman is beside him. That's what it looked  
2       like.

3           Q.    Okay. I think you're seeing me there. That's  
4       probably me. Mr. Sobel is appearing by himself at a desk  
5       in a courtroom. Can you see him?

6           A.    Sobel is -- I see -- I see. Who's Sobel? Could  
7       you raise your hand a little bit? Well, duh. That's you?

8           MR. SOBEL: Yeah. Can you see me?

9           THE WITNESS: Okay. I see you.

10          MR. EULISS: Q. Okay. I just want to make sure  
11       that you were able to see where your lawyer is. I'm not  
12       sure how much you'll hear from him during this, but if  
13       he's there, he may go ahead and enter some objections  
14       occasionally. But have you ever been deposed before, Mr.  
15       Leath?

16          A.    Deposed?

17          Q.    Yes. Have you ever had your deposition taken  
18       like we're doing right now?

19          A.    No, I haven't.

20          Q.    All right. I'm just going to give you some  
21       preliminary instructions and guidance on what you can  
22       expect here, and then we'll just, excuse me, start  
23       talking, diving into some questions.

24                So as you see next to you we have a court  
25       reporter there, Karen. She's got her keyboard there. She

1 is transcribing word for word everything that we all say  
2 here today to create a written record of it. So every  
3 question I ask she's going to transcribe, and then every  
4 answer you provide she's simply going to transcribe. And  
5 at the end of the deposition she'll process that and  
6 create a transcript so that we can refer back to it later  
7 in the case about, you know, what questions I asked and  
8 what answers you gave and potentially whatever objections  
9 Mr. Sobel chooses to enter.

10 She gave you an oath at the top, so I take it you  
11 understand that you are now testifying under oath; is that  
12 right?

13 A. Yes, she did.

14 Q. Okay. Great. Now because Karen is taking down  
15 what we're saying, it's important that the responses you  
16 give to my questions are audible rather than using head  
17 nods and head shakes. Oftentimes through depositions it  
18 can start taking on a conversational feel. It's just  
19 important to remember that we're trying to get a written  
20 record of what's said, so to give audible responses. And  
21 similarly to make sure and do the best we can to not talk  
22 over one another so that Karen can have an easier time  
23 capturing what everyone says.

24 Do you have any questions for me?

25 A. I'm good. I'm waiting on you.



1           Q.   Okay. Okay. No, that's fine. That's fine. All  
2   right. Just at the top of this deposition before we get  
3   to substantive questions, I know from reading your  
4   complaint that you're suffering from significant vision  
5   loss and I wanted to know whether or not you are capable  
6   of reading any documents if we were to put some of them in  
7   front of you today.

8           A.   Well, closely I can read them, this close. I'm  
9   blind in my left eye and I see partially out of my right  
10   eye. Both my eyes were operated on. I'm quite sure that  
11   you have the medical reports from the hospitals.

12          Q.   Okay. All right. That's good. I just didn't  
13   want to put anything in front of you if you were not going  
14   to be able to look at it and review it.

15          A.   Well, the only reason I had --

16          Q.   I want to make sure we're fair there. All right.  
17   So --

18          A.   The only reason I can see is if my glasses. As  
19   far as read something, if it's close, close to me. The  
20   doctor tell me after like it's -- if the stenographer is  
21   right here, I can't see this -- this letter clearly, and  
22   it's that's about, what, 25 to 30 inches from the front of  
23   me. Can't see that. So it would have to be close to me  
24   too. And like seeing you, seeing you, I don't see none of  
25   you all's faces clearly. Nothing. I don't see you all

1 clearly at all. That's how bad my vision is.

2 Q. Okay. I understand.

3 A. I used to have 20 -- I used to have 20/40 vision.  
4 That's what they told me, 20/20 vision. It was better  
5 than 20/20.

6 Q. All right. We will get back to the state of your  
7 vision without a doubt later in the deposition. I just  
8 want to start with your time at USP Lewisburg. You're  
9 presently incarcerated at Atwater; correct?

10 A. Correct.

11 Q. All right. Do you recall when you were first  
12 brought to Lewisburg?

13 A. I don't know the exact dates, but it was -- I  
14 think it was in 2015. It might have been 2015 I'm quite  
15 sure or more towards '16. I'm not sure of the correct  
16 date.

17 Q. Okay. And were you transferred to Lewisburg from  
18 another penitentiary?

19 A. No. I came from Dallas State Penitentiary in the  
20 Philadelphia system. I came from Dallas State  
21 Penitentiary to Lackawanna County. From a Lackawanna  
22 County they took me to Canaan.

23 Q. Can you tell me why you were transferred to USP  
24 Lewisburg in '15?

25 A. Well, I got a -- the officer, they -- at the time

1       you know the situation at Canaan with the officer that got  
2       -- that got killed. They was really being really strict  
3       on guys. This is my first -- this is my first shot in a  
4       USP. They said that I assaulted a guard and I had -- and  
5       they said I pulled or had something on me or something,  
6       but they never got nothing on me. They never got nothing.  
7       They said there was contraband. They don't know what it  
8       was. They said I assaulted a guard. If I had assaulted a  
9       guard, the FBI would have picked it up and gave me a  
10      charge for it. They never -- they never -- they never --  
11      they sent the video off to the -- sent the video out --  
12      this is me telling you. I'm only telling you what they  
13      telling me.

14               They sent the video out to the FBI. The FBI sent  
15      it back, but they didn't bring no charges against me.  
16      They said that I didn't ever assault the guard, but the  
17      FBOP is saying that I started -- they didn't let me see  
18      the video or nothing, which I know I never assaulted the  
19      guard. I was in jail -- I was in jail -- I did 23 years  
20      in the state penitentiary. All right? I came and I was  
21      on parole and came here. These people, they put me in the  
22      SMU program. They signed me up for the SMU program for  
23      no -- for my extraction. I did my SHU time and  
24      everything. They gave me a one -- one and a two series.  
25      I think you have it right -- you should have all the

1 documents right here. Do you not have that?

2 Q. Yeah, I have everything you and your attorney  
3 have produced to us.

4 A. As far as so --

5 Q. So when you first arrived to Lewisburg -- I'm  
6 sorry?

7 A. Go ahead. What was you saying?

8 Q. When you first arrived to USP Lewisburg, did you  
9 immediately go into SMU?

10 A. Yeah, I got processed and went into the SMU. I  
11 was doing good and everything.

12 Q. Did you know anyone at USP Lewisburg when you  
13 first arrived?

14 A. No. Remember, I just did 23 and a half years.

15 Q. And when you first --

16 A. I just did 23 and a half years in a state  
17 penitentiary in Philadelphia system. I don't know no one  
18 in a federal system.

19 Q. All right. And when you first arrived at USP  
20 Lewisburg, did prison officials ask whether there were  
21 other prisoners there that had a problem with you?

22 A. Yeah, I tell them I don't have no problem. Like  
23 I told you, I shouldn't have had no problem. I hadn't  
24 been there for 23 years so how do I have a problem.

25 Q. Okay.

1           A.    The last time I was in the federal system was  
2           from '93 to '95 when I was going to court. I was down in  
3           Farrington, New Jersey. And from '93 to '95 --

4           Q.    All right. Did you have --

5           A.    From '93 to '95 --

6           Q.    Did you have a cellmate when you first arrived at  
7           Lewisburg?

8           A.    Yeah.

9           Q.    Do you remember that individual's name?

10          A.    I don't.

11          Q.    Was that individual your only cellmate until  
12          Trevor Charlton became your cellmate?

13          A.    Well, I had -- I had a couple -- I had like  
14          three people. I figured I had like one, two -- I might  
15          have had three other cellmates, two other cellmates before  
16          that, before that incident.

17          Q.    Do you know why those two or three prior  
18          cellmates were transferred away from you?

19          A.    Well, the other two -- well, we was in the cell  
20          -- one time we was in the -- we was in the shower. One of  
21          the cellmates got in there and the other guy got in there.  
22          One of my cellmates -- one of my cellmates -- they had us  
23          in a four-man cell. I was -- I was telling them in  
24          Lewisburg, they got you in a four-man cell. It's four men  
25          to a cell and one taller and all that.

1           And I was telling my cellie I don't really want  
2     to be in that type of cell right now with four inmates in  
3     the cell. I don't know how it came about, but anyway, you  
4     got these officers there named Hess and Shesley, Moore and  
5     -- Hess, Shesley, Moore, and Gilligan. Right? Do you  
6     hear me?

7           Q.    Yeah.

8           A.    The situation happened in the shower where I'm in  
9     the shower and a nurse comes in. You know, she comes into  
10    the shower room. It's a shower room about a little bit  
11    bigger than this. There's about six showers in there. So  
12    the shower room in there and everything. They take  
13    everybody out. They come to me. You know, we always  
14    speak to the nurses. It's nothing -- nothing about it.

15                So the guard -- so the guard -- she comes into  
16    the shower room though to give a guy medicine, give this  
17    other inmate medicine, give him his medicine. So the  
18    guard says something to me about, you know, you're in the  
19    shower and this and that and you're talking, and I'm like,  
20    yeah, but I always speak to her; what's the problem? So  
21    he say -- he say all right. So they get into -- he say  
22    something to me. They tell them to take me back to the  
23    shower.

24                When I get back to the shower, he kicked me in my  
25    back. I'm handcuffed already. He kicked me in my back

1 and punched me all up in my face and, you know, cut me up,  
2 cut my eyes up and all that. This is how all this shit  
3 started in the SMU.

4 Q. All right. So this incident that you're telling  
5 me about, this all happened before Trevor Charlton became  
6 your cellmate?

7 A. Yeah. And this is -- and the same guard,  
8 Shesley, that put his hand on me put that dude in my cell.

9 Q. Okay.

10 A. All it was was a --

11 Q. Tell me the name --

12 A. Shesley. Officer Shesley.

13 Q. Tell me the names of the guards again.

14 A. Moore, Hess, Gilligan, and Shesley.

15 Q. Okay. Officer Moore.

16 A. They all work -- they all work --

17 Q. And then Hess you said?

18 A. All the guards that work J-Block. It was the  
19 whole J-Block. J-Block, the J-Block on the bottom tier.  
20 I was on the first tier.

21 Q. All right. And you said Gillian, was that the  
22 third officer's name?

23 A. Gilligan. Gilligan, yeah, that's his name.  
24 Gilligan, like Gilligan's Island. If I ain't mistaken,  
25 it's Gilligan.

1 Q. Hess.

2 A. Hess, Shesley. Hess, Shesley, Moore, and  
3 Gilligan.

4 Q. All right.

5 A. I'm in the shower. They're telling me --

6 Q. Shesley?

7 A. Shesley. Shesley. They're telling me -- I go  
8 and sit down and I said, listen, we're not compatible in a  
9 cell. I even told Bingenger. I think his name is  
10 Bingenger. He's my counselor or he's my unit team.  
11 Bingenger or Begginger.

12 I'm saying that right, Sobel? What's his name?

13 MR. SOBEL: Just testify from your recollection.

14 THE WITNESS: You don't sound like Sobel, man.

15 MR. EULISS: That's your attorney. That's --  
16 that was your attorney.

17 Jonathan, maybe you can just identify yourself  
18 when you speak so there's clarity on that.

19 MR. SOBEL: I'll do that. I'll do that.

20 THE WITNESS: I'm saying from your -- I don't  
21 have any -- I don't have any paperwork from here, so I'm  
22 asking you is that the name that I gave you in your  
23 paperwork?

24 MR. SOBEL: This is Jonathan Sobel. They just  
25 want you to rely on your recollection. Don't worry about



1 if you have the paperwork or not.

2 THE WITNESS: No, I'm saying is the name correct?

3 MR. SOBEL: Don't worry about that. Just answer  
4 the question if you remember it. That's all.

5 THE WITNESS: Okay. Well, that's the situation  
6 right there as far as -- I think it was -- whatever the  
7 unit guy name, I asked him six times to move out the cell.  
8 They laughing and giggling like it's a joke. You know  
9 what I mean? Like it's a problem for me to move. I'm  
10 trying to alleviate the situation. And this is -- and  
11 this, the situation that happened and the guards is  
12 telling me in the shower while he's in another shower.  
13 They take him to another shower why don't I put my hands  
14 on him. And I said there ain't no reason for me to put my  
15 hands on that man. I'm not trying to go through that.  
16 "But that's the only way you all are going to get moved."  
17 This is what they're telling him. This is the SMU. I'm  
18 quite sure you all have heard this before because I'm sure  
19 you all have heard about the SMU program in Lewisburg. I  
20 know this ain't the first time.

21 Q. All right. And you said that -- and you said  
22 that you suffered an eye injury as a result of this?

23 A. Yeah, both of my eyes. Both of my eyes were  
24 operated on.

25 Q. Now I'm talking about this incident that you're

1       telling us about in the shower. You said you suffered an  
2       eye injury there?

3           A. No, I didn't that. I said -- I'm telling you  
4       what happened that led up to the situation. You're not  
5       listening to me. I said that this is what the guards is  
6       doing, playing -- they're playing -- they're playing good  
7       cop/bad cop. They're telling him the same thing. When he  
8       come in the cell, he can tell you the same situation.  
9       When he come in the cell, he's telling me: Yo, why they  
10      tell -- they told you to put your hands on me. And I'm  
11      like, yeah, that's what they're telling me to do to you.

12          Q. All right. Let's put -- let's put your  
13      interactions with Charlton aside for a moment because  
14      we're definitely going to get there. But I was asking you  
15      about prior cellmates. You said that you had two to three  
16      cellmates prior to Charlton. And what got us on this  
17      conversation about this incident in the shower was me  
18      asking you why were you separated from those prior  
19      cellmates, so that's what I'm trying to get to the bottom  
20      of now.

21           Do you know why the two or three cellmates you  
22      had prior to Charlton, why you were separated from them?

23           A. Well, sometimes -- sometime -- the SMU was all  
24      about trying to get a cellie that's compatible with you.  
25      If you don't have a cellie that's compatible with you --

1 because you're in the cell from 18 months with the same  
2 person. You're going to be in the cell with this same  
3 person, so if you're not compatible with this person, it's  
4 not going to work, brother.

5 I'm a Muslim. I pray five times a day and all of  
6 that. Some of them guys are not into that and they get  
7 offended about you getting up and doing certain stuff in a  
8 cell. So if you're not -- if they don't have an open mind  
9 to what you're going through, it's a problem. What you  
10 have to do is a problem there.

11 Q. Okay. So is it fair to say that the prior  
12 cellmates, you were removed from them because they  
13 disliked the religious practices that you exercised?

14 A. Well, I'm saying basically it can be that or, you  
15 know, some people just ain't compatible.

16 Q. Did you get into any fights with your prior  
17 cellmates?

18 A. Well, one cellmate I got into a confrontation  
19 with. That's how I got moved out the four-man cell.  
20 That's how when they had me in the four- --

21 Q. Can you tell me about that confrontation?

22 A. I told him -- he was a homosexual. I don't want  
23 him around me. I don't want him around me. I found out  
24 he was a homosexual. I don't want him around me. I'm a  
25 Muslim. I don't do none of that, so he got to get away

1 from me. So I told Hess this. And I told Hess this and  
2 all that and this is how the whole situation come about.  
3 Because I tell him I don't want to be around the  
4 homosexuals. And I'm quite sure you have it on a  
5 write-up. I said it out to his face in the cell when I  
6 was in the cell with them. They're homosexuals. I don't  
7 want to be around them.

8 Q. All right. Did -- did you get into a physical  
9 altercation with this prior cellmate who was a homosexual?

10 A. They wouldn't let me out the cell. He -- I think  
11 he put a request in for us to come to the cell, four-man  
12 cell. So I'm tripping. We was in a two-man cell, so it  
13 is -- it wasn't even our turn for us to put -- but he put  
14 a request in for behind my -- he put a copout behind my  
15 back. I didn't even know. I was in the yard. He put a  
16 request in to go to the cell -- to the cell -- to a  
17 four-man cell. I didn't know it. So when they put us in  
18 -- when they did the 21-day move to move us in the cell,  
19 I'm like: Yo, what is this about? So I don't make no  
20 complaints. I go to the cell.

21 So some -- then I go to the yard and come back.  
22 You know, I know something is going on. I had a feeling  
23 about this dude when they first matched us and put us in  
24 the cell with each other. So I'm like, okay, I don't  
25 really care because I'm not into what he into. Okay? So

1 now when we get into the four-man cell, I go to the yard  
2 and come back. I'm not with what's going on so I tried to  
3 get moved. They wouldn't move me out the cell. So he pp  
4 the one that brought me in the cell, we get into a  
5 confrontation because he don't want to be in the cell with  
6 the other two guys that's in there.

7 Q. What confrontation did you get into? Was it just  
8 verbal or did you get physical?

9 A. Well, I guess I got the write-up. I'm saying you  
10 have the shots right there. The shots -- it was a  
11 physical altercation. It got into a physical altercation  
12 in there. I got into a physical altercation with the one  
13 was my cellie and they moved me out the cell. They moved  
14 me in a cell by myself. That's when the other cellie came  
15 in. Before that -- after that I had another cellie.  
16 After that I had another cellie that was a Muslim man. We  
17 got along good. You see, that's the whole thing. I had  
18 another cellie after that that was a Muslim. He was a  
19 Muslim. We was in a four-man cell too when all this  
20 happened, when the situation happened when they moved me  
21 up on the third floor.

22 Q. All right. Let's start talking a little bit  
23 about Trevor Charlton. When did you first meet him?

24 A. What you say? Say that again. When I first meet  
25 who?

1 Q. Trevor Charlton.

2 A. Listen to me, I can't tell you that.

3 Q. Yeah. When did you first meet him?

4 A. Listen to me. You should have all that from the  
5 SMU when his date come in. I can't tell you no dates and  
6 all of that. The dates is going to be -- it's vague in  
7 the dates. I couldn't tell you the dates. Okay? I don't  
8 know what dates it is. I don't know what the dates is. I  
9 don't have --

10 Q. That's okay that you don't know the dates.

11 A. All right. The date, as far as the date, I don't  
12 know what date. It's years ago. All right? Right now --  
13 the only reason why I can't tell you the date or the  
14 situation that happened because during my -- during my  
15 process of getting transferred, all of my paperwork is --  
16 got missing from this situation. All of a sudden they  
17 come up missing.

18 Q. All right. I'm not asking for a specific date.  
19 When I say to you when did you first meet him, why don't  
20 we rephrase it to say describe the circumstances under  
21 which you first met him. Was it when he was first brought  
22 to your cell to be your cellmate?

23 A. That's the only way I ever meet him, man. Listen  
24 to me. I'm trying to do the 18 months and get out of  
25 there. My situation is -- I'm saying I'm trying to get

1 back my life since. Okay? I'm -- I'm in the courts at  
2 this present time waiting on a decision. So my thing  
3 is -- my thing is I'm trying to do this program and get  
4 out. They put me here under false pretenses and lied to  
5 me and got me in this situation. So I'm trying to -- I'm  
6 trying to get out of this situation and the fastest I  
7 could and get up out of here. And I'm trying to do the  
8 program and complete the program and get up out of here.

9 Q. All right. So Charlton was brought to your cell  
10 after you were moved to a cell by yourself?

11 A. Right. After the situation happened in the  
12 shower with --

13 Q. All right.

14 A. After the situation happened in the shower with  
15 the guard Shesley when I'm handcuffed and he put his hands  
16 on me.

17 Q. Okay. Well, you hadn't met Charlton before you  
18 said. This is the first time you're meeting him when they  
19 brought him to your cell; right?

20 A. I never met this man.

21 Q. All right. So how did you guys get along in the  
22 beginning?

23 A. Well, when you first come in a cell, you know,  
24 when you first came to the cell, the situation as far as  
25 he had -- he was under restraints. He was under

1 restraints. He had -- you know how -- he had like open  
2 wounds on the back of his ankles and his hands. He was on  
3 restraints. So they put a problematic dude in my cell.  
4 All right? A dude that's staying in trouble or whatever.  
5 I'm trying to complete this program and get up out of  
6 here. I only had one that one incident. Only had one  
7 incident. Okay. And if you see on the write-ups, you  
8 know, at the one time it was two write-ups that they gave  
9 me that they threw out. With him it was a process because  
10 of him because of something burning in the cell. You know  
11 what I mean? Then the guard is telling me that we know  
12 that since he's the problem, the unit team dude, Bingenger  
13 or whatever his name is, he's telling me: All right. I  
14 know this guy is a problem, but we're going to throw your  
15 write-ups out, but he's the problem.

16 And I'm going like: Listen, man, why you all  
17 going to put me in cell with this guy. But they don't  
18 want to move me from this. They don't move me. He keeps  
19 laughing and joking like it's a problem. And he's the  
20 unit -- he's the unit manager. He's supposed to alleviate  
21 the problem.

22 Q. Okay. But describe to me what the -- before you  
23 and Charlton got into this fight, describe to me what the  
24 tension was between you guys. Why did you not like each  
25 other?



1           A.   Well, for one thing he say he don't like being  
2           around Muslims. He don't like Muslims. He was a  
3           Christian and that was the problem. He was a Christian, I  
4           was a Muslim. He didn't want to be around me. He told  
5           the people that he wanted to move back on C-Block. So  
6           now --

7           Q.   Who did he tell that he wanted to move?

8           A.   He told -- if I ain't mistaken, he told Hess  
9           that. Hess and it was -- and it was another guard. I  
10          can't remember his name at the present time, but he was  
11          working on the top, on the third tier.

12          Q.   Did he tell Hess -- did Charlton tell Hess that  
13          if Hess didn't move Charlton, that Charlton was going to  
14          hurt you?

15          A.   I never heard that. All I know is this. If you  
16          got me in one shower and you got him in another shower,  
17          you telling me -- Moore and Gilligan is telling me to put  
18          my hands on him. You understand what I'm saying? It's  
19          like they're playing conquer and divide. They're telling  
20          me to put my hands. I'm telling him, listen, man, I'm not  
21          into that. I'm trying to get up out of here. "But that's  
22          the only way you all are going to get moved because we  
23          don't care." This is what they're saying. "We don't  
24          care."

25                So I'm telling them like -- and then at one point

1 I'm telling the unit manager Begginger, or whatever his  
2 man is. He got a funny name. Bingenger or Begginger,  
3 something like that. I'm telling him: Look, could you  
4 move me out of this situation. They're not -- they're not  
5 trying to do anything. They haven't done anything about  
6 it. And this has been going on -- I've been his cellie  
7 for about damn near about four or five months. Might have  
8 been more. Three or four months. Me, I was the dude's  
9 cellie, but I'm telling them, I'm telling them, you know,  
10 I'm trying to get moved out of this situation because it's  
11 not -- it's not going compatible for me. You know what I  
12 mean?

13 I'm saying at the time I'm 50 years old, man.  
14 I'm saying all this stuff that I've been doing. I'm  
15 not -- I'm at a place and a rest in my life, man, you  
16 know, I'm trying to do better things in my life and do  
17 something better. And at the present time I'm already in  
18 this situation because of false -- of falsified  
19 documentation. They falsified documentation and put me in  
20 this situation already, so I'm not -- I'm not trying to  
21 make a worse situation for me. It's all falsified because  
22 if the FBI, if they sent a video out to the FBI and an  
23 officer just got killed down in Canaan. At that present  
24 time it's been almost past a year. If I put my hands on  
25 this officer and assaulted the officer, they would have

1 given me a case. They would have gave me a street case  
2 for that.

3 Q. Let -- let's go back to what you were saying  
4 about the shower real quick. When you said that they were  
5 telling you to put your hands on him, who's him? You mean  
6 one of officers or Charlton?

7 A. No, they said put my hands on the inmate, the  
8 cellmate Charlton.

9 Q. So they were trying to get you to fight him?

10 A. And listen -- they was trying to get me to have  
11 an altercation or fight him and they was telling him the  
12 same thing. They put me in one shower and put him in  
13 another shower and this is what they was doing, man.

14 Q. Okay.

15 A. And then he had come in the cell and tell me did  
16 they say this to you, and I was like, yeah, they said the  
17 same thing to me to you. So he's already -- I mean, it  
18 was like some Willie Lynch shit they were doing. You  
19 know, conquer and divide.

20 Q. All right. All right. So you and Charlton are  
21 talking to each other and you realize that these guards  
22 are telling each of you separately to fight each other.  
23 What makes you guys actually end up fighting?

24 A. Listen, man, he's telling me that and he's -- and  
25 I'm saying -- I asked him: Look, this is what you want?

1 This is what I'm saying. When I say this is what you  
2 want, I'm saying is this what you're about. He said, no,  
3 this ain't what I'm about. Okay. Then my thing is if you  
4 don't want to be in here, let's separate, man, and get  
5 away from each other.

6 Now a week, about a couple weeks later he's  
7 playing with the same two guards and telling them: Well,  
8 I don't want to move. You know, I don't want to move. So  
9 I don't know what's going on with them or what type of  
10 deal they made with him. You see what I'm saying? So now  
11 I'm like trying to get up out of here, but I'm not -- I'm  
12 saying for real for real I'm not trying to go through the  
13 situation with the guards.

14 Just like the situation when he brought me  
15 upstairs. He's going to loosen the handcuffs up and  
16 there's two, three guards on the top on the other tier and  
17 another guard on another tier. He's trying to get me to  
18 slip off the handcuffs to do something to them. You know  
19 what I mean? Because I think they're trying to kill me.  
20 That's what I'm trying to think. That's what it seemed  
21 like to me. They're trying to set me up so they can do  
22 something to me.

23 Q. All right. So did you ever --

24 A. And I -- and I heard that -- I heard that dudes  
25 got pushed down the steps and hurt and all this in this

1 program. And I heard that guys, they beat guys half to  
2 death all that in this program. This is what's going on  
3 in this program.

4 Q. All right. Did you ever say to any guards that  
5 you felt threatened by Mr. Charlton and you needed to move  
6 your cell because of that?

7 A. No, I ain't never felt threatened by him. I  
8 never felt threatened by him. The point what I'm saying  
9 is if they telling him one thing and they're telling me  
10 one thing, I know what they're telling me to do, so  
11 they're telling him the same type of thing. But the point  
12 what I'm trying to say is I never felt threatened. It was  
13 the point that I felt threatened, it was the point that  
14 I'm trying to alleviate the situation so I can do the  
15 program and get up out of here.

16 I'm saying, you know, I got five grandkids, man,  
17 and I got son and a daughter I'm trying to get -- I would  
18 say out of what I'm trying to get closer to my family and  
19 my kids. And I'm trying to get closer to my -- I'm trying  
20 to get back to what I was doing before I went to the  
21 program.

22 Q. All right. So just to make sure that we're  
23 clear, you never said to any prison official that Mr.  
24 Charlton was going to physically harm you if you did not  
25 move cells?

1           A.    No.  I said that we're not compatible.  That's  
2   what I told -- that's what I kept telling Bingenger.  Told  
3   them we're not compatible, we don't get along, can you  
4   move us.  Can you move one of us.

5           Q.   All right.  All right.  Let's talk about the day  
6   that you and Mr. Charlton did end up fighting.  Can you  
7   walk me through that.  Tell me how it started.

8           A.   Well, the man put his hands on -- the man swung  
9   on me; right?  And I ain't going to lie, you know, I beat  
10   him.  I did what I had to do.  And he was down.  I let the  
11   man up.  I tell the man get up off me.  He had my leg,  
12   holding to my leg, so I'm like get off me.  I try to pull  
13   back, and the man, he act like he was going to let it be  
14   ended.

15                   Now remember, I'm 50 years old at the time.  He's  
16   40.  I'm not worried about this guy because, you know, I  
17   already -- I know that -- I'm not saying that, you know,  
18   I'm the type of guy that's -- that -- I can handle myself.  
19   Put it that way.  I'm not worried about him.  My thing is  
20   I'm trying to alleviate the problem.  The problem -- the  
21   problem is -- the problem with the situation is this, that  
22   we are -- is going at it, we're going at each other for  
23   the simple fact is this.  They're not doing their job.  
24   They in control of this program.  They're the authority.  
25   When I went to them and told them and my counselor and the

1 unit manager, listen, I'm trying to get moved, man, they  
2 didn't move me. This is their fault. This -- the whole  
3 situation occurred because this is their fault. I asked  
4 them over six times to be moved. He asked at least three  
5 to four times, and then he switched up after the guards  
6 started talking to us in the shower.

7 Q. All right. Why did he swing on you? You said  
8 the whole thing started because he swung on you. What led  
9 to him doing that?

10 A. I was getting up off my salat. This is the salat  
11 prayer. It was late and it was after the Isha prayer. It  
12 was the late prayer. I was on Isha prayer, late prayer.  
13 He got an attitude about that.

14 Q. Okay.

15 A. He was fishing under the door.

16 Q. What did he say to you?

17 A. He was fishing under the door with some other  
18 guys. Excuse me. Let me off my prayer real quick and you  
19 can go back and what you were doing. You know, fishing  
20 lines, you know how it is, under the door. I'm trying to  
21 get -- I'm trying to take care of that and make my Isha  
22 salat. He got an attitude with me about offering my  
23 prayer.

24 And this is the situation where it's -- this is  
25 what he already told them. He told them already that he

1 didn't want to be in a cell with a Muslim. So they should  
2 have moved us already. They should have -- they should  
3 have alleviated the situation.

4 Q. All right. Did anybody witness the fight between  
5 you and Mr. Charlton?

6 A. I'm saying you all should have it on camera. You  
7 all should have had all of that. You've got cameras in  
8 there. You all should have all of that.

9 Q. Did any -- did any other prisoners witness the  
10 fight?

11 A. I don't know. We in a cell by ourself. I can't  
12 tell you all that.

13 Q. As far as you know did any of the guards witness  
14 the fight?

15 A. I can't tell you all that. I don't know. All I  
16 know -- all I know is the officer came and I was escorted  
17 at that time. I was escorted to the hospital. I went to  
18 the infirmary and they escorted me to the outside  
19 hospital. Excuse me.

20 Q. When -- when Charlton swung on you or even the  
21 moments leading up to that when he was giving you problems  
22 with your prayer, did you ever call out for the guards?

23 A. No. I'm saying why would I do that.

24 Q. All right. So he hit you first?

25 A. All I was doing was -- all I was doing was



1       defending myself, man. That's all I did. I never  
2       initiated.

3           Q.    Okay.

4           A.    I never initiated anything or anything. I was  
5       defending myself.

6           Q.    All right. Let's talk about your injuries. Tell  
7       me about the injuries that you suffered as a result of  
8       that fight.

9           A.    I lost -- I got a finger stuck in my eye. A  
10      finger got stuck in my eye, in my left eye and in my right  
11      eye. And I can't see -- I can't see anything. I'm blind  
12      in my left eye and I can only see partially out of my  
13      right eye a little bit. I can see better with my glasses.

14          Q.    Okay. And both of those -- both of those  
15      injuries to both eyes were from the fight?

16          A.    Yeah.

17          Q.    Do you have cataracts in one of your eyes?

18          A.    That's -- that's the result of this -- that's the  
19      result of my right eye, seeing out of my right eye.  
20      That's the result after the operation of -- excuse me.  
21      After the operation and all the situation that happened as  
22      far as the operations and the care for my eye, I develop a  
23      cataract in my right eye.

24          Q.    Okay. And -- oops. How did I do that? Hang on  
25      one second, folks. Oh, there you are. All right.

1           A.    What is that that you keep doing with the -- what  
2           is that that's -- you know, you keep on with the camera,  
3           like is it on and off.

4           Q.    What's the camera doing?

5           A.    Is it off and on?

6           Q.    Can you see me now?

7           A.    Yeah, it's on now, but it seemed like every time  
8           I talk it's going off and on like.

9           Q.    Okay.  So other than the eyes, you also suffered  
10          some injuries to your ears, right?

11          A.    Yeah.

12          Q.    Can you describe those for me?

13          A.    Yeah.  Well, I was bitten.  I was bitten on the  
14          head, bitten on my finger.

15          Q.    Uh-huh.

16          A.    You know, like I was bitten, you know, like I --  
17          I'm trying to say like, you know, this is -- this is what  
18          happened.

19          Q.    Okay.  And are parts of your ear missing as a  
20          result of this?

21          A.    Yes.

22          Q.    Same thing with your finger, is there a piece of  
23          your finger missing?

24          A.    Well, no, no, the finger, they sewed it up.  It's  
25          all right.  You know, I got a little scar on it, but it's

1       okay.

2           Q.    Okay.  Now I know you have a corrections officer  
3       in there with you.  I'm wondering if it's possible for you  
4       to come up close to the camera just so we can see your  
5       ears.  Can we do that?

6           OFFICER COGGINS:  Yeah.

7           THE WITNESS:  They sewed it up.

8           MR. EULISS:  Q.  Yeah, you can't really tell.

9           A.  On both of them.  And my eye.  My eyes.  And this  
10       is the eye I can see out a little bit.  This is the blind  
11       eye, my left eye.

12          Q.  Uh-huh.  Any other physical injuries?

13          A.  No, that's it.

14          Q.  Okay.  Now what about -- go ahead.

15          A.  Go ahead.  I'm saying I was at -- I went to  
16       see --

17          Q.  Any emotional --

18          A.  Well, I'm --

19          Q.  Please finish.  Finish your answer.  What were  
20       you going to say?

21          A.  I'm saying, you know, as far as a situation like  
22       this, you're going to have -- you're going to have  
23       emotional damage and all that type in there, you know.  
24       But I mean, it's physical damage, emotional damage, you  
25       know, and I'm dealing with it.  I haven't went to see the

1 -- when I was there in Lewisburg, I had seen a  
2 psychiatrist about the situation of trying to deal with my  
3 eye loss and all that, you know. And I just got point of  
4 views from her and taking up the class as far as the  
5 mental health classes and stuff. I took -- I took some  
6 incentives myself with the books and read and I passed the  
7 mental health classes and stuff like that. I got the  
8 certificates for that to help myself.

9           Once my eye got a little bit better where I could  
10 put the papers up and read and I could read a little bit,  
11 I read the stuff and did the paper -- and did the work on  
12 that.

13           Q.    Okay. Could you describe some of the emotional  
14 and psychological injuries that you're continuing to  
15 suffer from?

16           A.    Well, I'm not -- I'm not saying that it's  
17 psychological injury. It's like as far as it's a mental  
18 thing where it's -- you know, I'm -- I'm just dealing with  
19 the situation that happened to me. Having -- having my  
20 vision all my life and this happen, you know, is a  
21 situation where I have to adapt to my situation. And I'm  
22 trying to adapt and do better and I'm going through the  
23 transformation right now as far as I transformed and I  
24 have a disability now for this. And it's a disability and  
25 I trans- -- you know what I mean? And I am trying to make

1 the transformation into, you know, this situation to make  
2 my life a little bit better.

3 I have to -- I have to adapt to my surroundings  
4 and everything and I have to adapt to my eyes being not --  
5 having like -- having a good sight and then I don't have  
6 it, it's -- my eyes is, you know, is really bad. I mean I  
7 can't see. I can't see out of my left eye. I'm blind in  
8 my left eye and I can see partially out of my right and  
9 I'm adapting to the situation. It's a transformation.  
10 It's a hell of a transformation.

11 Q. Going back to when you were still cellmates with  
12 Charlton, did you make any written requests or --

13 A. Yeah.

14 Q. -- put anything down in writing requesting that  
15 you or Charlton be moved or that you two be separated?

16 A. Well, Bingenger told me -- this is when he was  
17 going on a two-week vacation or something. He said I'll  
18 be back in two weeks, and this situation happened when he  
19 was on vacation. All right? But three -- three months  
20 prior to this I had been asking about getting away from  
21 this situation three months prior to this. So this happen  
22 when he went on vacation for like two weeks.

23 Q. Okay. So you didn't -- you didn't do anything in  
24 writing?

25 A. Well, yeah, I wrote him. I gave him a request.

1 I gave Bingenger a request slip. I gave him copouts  
2 saying that I would like to be moved, verbally and written  
3 copouts.

4 Q. Okay. All right.

5 A. He was at my door. He had come around and made  
6 his rounds. He would make his rounds and that's how I  
7 expressed this to him.

8 Q. All right. So you're at Atwater now. Do you  
9 have a cellmate right now?

10 A. Not right now.

11 Q. How long has it been since you've had a cellmate?

12 A. Well, we've been on lockdown since --

13 Q. About?

14 A. We've been on lockdown I think about two weeks  
15 now. I just had a cellie. I just --

16 Q. Did you have a cellmate before the lockdown?

17 A. Yes.

18 Q. How did you get along with that cellmate?

19 A. It was all right. You know what I mean? We  
20 know -- we -- it was good. You keep asking me about these  
21 cellmates like you're trying to paint a pattern like I'm  
22 the problem. Like you're trying to paint the picture or  
23 something.

24 Q. What about -- what about when you left Lewisburg.  
25 You went to Big Sandy; right?

1 A. Yeah.

2 Q. Okay. And I had -- did you get into an  
3 altercation when you --

4 A. No. When I went -- when I left Lewisburg, I went  
5 to Allenwood. This is what -- I went to Allenwood, then I  
6 went to -- then I went to Big Sandy. Then Coleman and  
7 then here. And I never had any infractions. I never had  
8 any infractions or write-ups.

9 At Big Sandy I got into an altercation. I had --  
10 I got into an altercation in the hole with a cellie.  
11 That's the only infractions.

12 Q. Can you tell -- all right. Tell me about that  
13 altercation with the cellie in Big Sandy.

14 A. I'm saying the situation in the cell, the  
15 situation in the cell with the dude, he coming in all high  
16 off K2 and he's tripping. That's all. And, you know, it  
17 wasn't nothing about -- it wasn't really about nothing  
18 nothing. He's just tripping and, you know, he's high off  
19 K2 and they put him in my cell.

20 Q. Was he your cellmate at that time --

21 A. Yes.

22 Q. -- when he was high on K2 when you guys got into  
23 this fight?

24 A. Yeah, he was tripping on K2. It wasn't nothing.  
25 It really wasn't nothing. I got transferred right after

1       that.

2           Q.    Okay.  Who hit who first in that altercation?

3           A.    I never hit -- I never initiate anything, man.

4       At the time I'm -- can I ask you something?

5           Q.    So this --

6           A.    I'm blind in my eye.  Do you think I would  
7       initiate a situation where I'm not -- you know, I'm -- I'm  
8       blind at this present time.  I'm not going to initiate  
9       anything.

10          Q.    All right.  So he hit you first.  What preceded  
11       him hitting you?  What happened that he ended up striking  
12       you?

13          A.    No, well, the man was -- I tell you the man was  
14       dysfunctional as far as he was high off drugs.  When  
15       you -- I'm quite sure you all know about that.  If he's  
16       high off these synthetic type of drugs, he's dysfunctional  
17       and he just snapped out and, you know, I just was  
18       defending myself.

19          Q.    Okay.  And had you been putting in copouts when  
20       you were at Big Sandy asking -- you know, saying that you  
21       shouldn't have a cellie because of your vision loss?

22          A.    No, I -- I put a copout in because I'm dealing  
23       with the situation with these cellies.  And I said,  
24       listen, it's in my files, it's in my files that they put  
25       me in a single cell down in Lewisburg.  So it's in my



1 files that I'm not supposed to be with a cellie. It's  
2 already in my -- it's written in my files. It's written  
3 in my paperwork that, so why should I have to put it in.  
4 When I tell them that, they said, yeah, you're right, you  
5 know, but we got -- there's always some type of excuse.

6 Q. Right. Okay. But it was in your file, but did  
7 you put in those copouts while you were in Big Sandy?

8 A. At the time I was in the SHU. I was waiting on  
9 to get transferred.

10 Q. So you did? That's a yes, you put in the  
11 copouts?

12 A. No, I'm saying at the time I don't know if -- if  
13 you're talking about a situation that when a captain came  
14 to see me because of my cellie say something to him and  
15 they put us -- they took us out and put us in cages and we  
16 saw each other and all that. And I'm like listen, man, I  
17 got a situation with my eyes, this, this, and that. And  
18 you know, they took him and put him in another cell, but  
19 they're still going to put somebody in your cell. So, you  
20 know, it's -- it's like defeating the purpose for even  
21 putting the situation in.

22 MR. EULISS: Okay. Let's take a five-minute  
23 break. I just want to go over a couple things. And,  
24 Jonathan, if you have any questions, we may turn to you  
25 soon.

1 MR. SOBEL: Thank you.

2 MR. EULISS: We'll go off the record for five.

3 (Recess from 11:07 a.m. to 11:12 a.m.)

4 MR. EULISS: Mr. Leath, thank you for taking the  
5 time to answer my questions today. I don't have anything  
6 further for you, so I'll turn it over to Mr. Sobel to see  
7 if he has anything.

8 MR. SOBEL: I just have a couple questions.

9

10 EXAMINATION

11 BY MR. SOBEL:

12 Q. James, good afternoon.

13 A. Good afternoon.

14 Q. Do you remember after the incident with Mr.  
15 Charlton where you were treated --

16 A. Yeah.

17 Q. -- for medical treatment?

18 A. It was up -- I think I gave you the -- if I ain't  
19 mistaken, I gave you the name of the hospital. I know I  
20 remember when I was at Big Sandy I know it was Pikeville  
21 -- the Pikeville Medical Center, right -- Pikeville --  
22 Pikeville Medical Center, I know I was treated there. The  
23 one that I did the operation at I'm not sure where I was  
24 at. It was -- it was out in -- it was out in that area  
25 Lewisburg area.

1 Q. Okay. When you said Pikeville, are you talking  
2 about Kentucky?

3 A. Yeah, that's out in Kentucky. I was out in  
4 Kentucky. I remember I had a Hazelett -- Hay Kazelett --  
5 Kay Hazelett. Kay Hazelett. That was my ophthalmologist.

6 Q. Did you receive any treatment when you were in  
7 Florida?

8 A. Yeah, I was -- when I was in Florida, did I go  
9 out? I never went out. When I was in Florida I never  
10 went out for my eyes. I never went out. Only -- only at  
11 Big Sandy and if I ain't mistaken Lewisburg. And did I go  
12 Allenwood? I might have went back to the doctors at  
13 Allenwood. Whatever -- whatever the doctors on that note,  
14 the hospital on that note. I don't remember. I know I  
15 remember Pikeville Medical Center. That was out in Big  
16 Sandy out in Kentucky. I remember that. That was real  
17 nice.

18 Q. And were you in Victorville, California?

19 A. Well, Victorville, I stayed there just -- this is  
20 like an overnight stay to come here. That was like a  
21 two-week stay. That was like a holding facility.

22 Q. Have you seen any doctors since you've been in  
23 Atwater?

24 A. Well, I had a Dr. Goodman, Good- -- I think it  
25 was a Goodman if I ain't mistaken. I just got a pair of

1 glasses and they're not even right. I can't see out of  
2 them right. Everything is like -- you know, I really need  
3 -- I really need to get to see an outside ophthalmologist  
4 to get some good glasses for my eyes.

5 Q. Have you been outside of the facility -- of the  
6 prison since --

7 A. Here, no, I haven't.

8 Q. -- you've been in Atwater?

9 A. No, I've never been out. I haven't even seen a  
10 doctor. They had the doctor come in here, this guy  
11 Goodman or Guzman or something like that. Dr. Goodman.

12 Q. All right. Did you -- did you say one of the  
13 guard's names was Lettinger?

14 A. No. I said the guard's name was Gilligan.

15 Q. Not Gilligan.

16 A. What you talking about?

17 Q. No. Did you testify during the deposition that  
18 someone you had interaction with who I believe you said  
19 took a vacation for a few weeks?

20 A. Yeah. Begginger, Bingenger. He's supposed to be  
21 the unit manager. He's supposed to be the unit manager.  
22 Bingenger, Bellinger, or something like that. I think you  
23 have it in those notes. I think I gave the correct name  
24 because I think I gave it to you then.

25 Q. Okay. Is Mr. Charlton currently in Atwater?

1           A.    No.  He wouldn't be here.  I didn't see him.  
2           MR. SOBEL:  Okay.  That's all I have.  Thank you.  
3           MR. EULISS:  Okay.  That's it.  We can conclude  
4   then.  
5           MR. SOBEL:  All right.  
6           MR. EULISS:  Jonathan, are you going to read and  
7   sign or what?  
8           MR. SOBEL:  Yeah, I can.  
9           MR. EULISS:  It's probably a little hard.  
10          MR. SOBEL:  Yeah, for him to do it, yeah.  
11          THE WITNESS:  What you say?  
12          MR. SOBEL:  I'll review the transcript, make sure  
13   everything is accurate and then sign it and send it back  
14   to the court reporter.  Okay?  
15          MR. EULISS:  Well, I don't think you can do that;  
16   right?  
17          MR. SOBEL:  I don't think he can.  
18          MR. EULISS:  Yeah, all right.  So, I mean, I  
19   guess we can talk about this more, but it sounds to me  
20   like you're going to waive read and sign then?  
21          MR. SOBEL:  Yeah, yeah, that's fine.  If you want  
22   to do it that way, that's fine.  
23          MR. EULISS:  Okay.  All right.  Cool.  We're  
24   done.  Thank you.  
25          MR. SOBEL:  Thank you.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

(Whereupon, the deposition of JAMES  
LEATH concluded at 11:19 a.m.)

--o0o--

1 STATE OF CALIFORNIA, )  
2 COUNTY OF MERCED. )

3 I, KAREN A. AUFDERMAUR, a Certified  
4 Shorthand Reporter of the State of California, do hereby  
5 certify:

6 That on November 14, 2018, at the hour of 10:15  
7 o'clock a.m. thereof, the witness herein named, JAMES  
8 LEATH, appeared before me for the purpose of giving his  
9 deposition; that after the witness was duly sworn by me in  
10 all respects as required by law, I took down in shorthand  
11 notes the said witness' testimony and the proceedings had  
12 at the time of the giving of such testimony.

13 It was stipulated by and between counsel, with  
14 the consent of the witness, that examination, reading, and  
15 signing of the deposition be waived and the deposition for  
16 all purposes in this case shall be deemed to have been  
17 signed by the witness.

18 That I thereafter transcribed my shorthand notes  
19 of such testimony by computer-aided transcription, the  
20 above and foregoing being a full, true, and correct  
21 transcript of all proceedings had and testimony given.

22  
23 \_\_\_\_\_  
24 KAREN A. AUFDERMAUR, CSR #10919  
25 Certified Shorthand Reporter

DEFENDANT  
EXHIBIT

D

**Transcript of the Testimony of:**  
**Hazelett, M.D., F.A.A.O. Kay**

**Date:** March 29, 2019

**Case:** James Leath v. United States of America  
3:17-CV-1418

*Tom Crites & Associates International, Inc.*  
P.O. Box 9438  
Savannah, Georgia 31412  
Phone: 800-631-3480  
Fax: 912-233-7777  
critesreporting@aol.com  
www.critesintl.com



UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JAMES LEATH,	)	
	)	
Plaintiff,	)	
	)	CIVIL ACTION FILE
vs.	)	
	)	NO. 3:17-CV-1418
UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

Videotaped Deposition (by VTC) of KAY  
HAZELETT, M.D., F.A.A.O., taken by counsel for  
Defendant, pursuant to Notice, before Tracy Z.  
Norwood, Certified Shorthand Reporter and  
Registered Professional Reporter, at UNITED STATES  
ATTORNEY'S OFFICE, 22 Barnard Street, Suite 300,  
Savannah, Georgia, on March 29, 2019, having  
commenced at 10:55 a.m.

Hazelett, M.D., F.A.A.O. Kay  
James Leath v. United States of America

March 29, 2019

2

2 APPEARANCES OF COUNSEL:

3 FOR THE PLAINTIFF (via telephone):

4 Jonathan J. Sobel, Esquire  
5 LAW OFFICES OF JONATHAN J. SOBEL  
6 1500 Walnut Street, Suite 2000  
7 Philadelphia, Pennsylvania 19102  
8 (215) 735-7535

9 FOR THE DEFENDANT (via videoconference):

10 Richard D. Euliss, Esquire  
11 ASSISTANT UNITED STATES ATTORNEY  
12 Cristina M. Guthrie, Paralegal  
13 228 Walnut Street  
14 Harrisburg, Pennsylvania 17101  
15 (771) 221-4482  
16 richard.d.euliss@usdoj.gov

17 - - -

18

19

20

21

22

23

24

25

Hazelett, M.D., F.A.A.O. Kay  
James Leath v. United States of America

March 29, 2019

3

2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I N D E X

PAGE

EXAMINATION:

By Mr. Euliss.....	5
By Mr. Sobel.....	16
By MR. Euliss.....	21
ATTESTATION.....	23
ERRATA SHEET.....	24
CERTIFICATE.....	25

- - -

D O C U M E N T A R Y E V I D E N C E

EXHIBIT	DESCRIPTION	PAGE
1	Medical Records.....	5

- - -

2 DISCLOSURE STATEMENT

3

4 STATE OF GEORGIA

5 COUNTY OF CHATHAM

6

7 Pursuant to Article 10.B of the Rules of  
8 Regulations of the Board of Court Reporting of the  
9 Judicial Council of Georgia, I make the following  
disclosure:

9

10 I am a Georgia Certified Court Reporter.

11 I am not disqualified for a relationship  
12 of interest under the provisions of O.C.G.A.  
9-11-28(c).

12

13 I am an employee of Tom Crites &  
Associates, International, Inc.

14 My office was contacted by Mr. Euliss's  
15 office to provide court reporting services for  
this proceeding.

16 Tom Crites & Associates International,  
17 Inc. will not be taking this proceeding under any  
contract that is prohibited by Georgia Law.

18 This, the 29th day of March, 2019.

19

20

21

22 Tracy Z. Norwood  
23 Certified Shorthand Reporter,  
6569-8937-0082-9184, and  
24 Registered Professional Reporter

25

1 EULISS - DR. HAZELETT

2 (Whereupon, Medical Records  
3 were marked as Deposition  
4 Exhibit No. 1 for  
5 identification.)

6 KAY HAZELETT, M.D., F.A.A.O.  
7 having been produced and first duly sworn as a witness,  
8 testified as follows:

9 EXAMINATION

10 BY MR. EULISS:

11 Q. Dr. Hazelett, can you state your name for the  
12 record and see if Mr. Sobel can hear it?

13 A. I'm Dr. Kay Hazelett. I'm from Pikeville,  
14 Kentucky. I'm an ophthalmologist.

15 Q. Hazelett. I apologize for that  
16 pronunciation.

17 MR. EULISS: Jonathan, did you hear  
18 that?

19 MR. SOBEL: Yes.

20 MR. EULISS: Okay. Great.

21 BY MR. EULISS:

22 Q. Because we're now on the record, just to be  
23 clear, Jonathan Sobel is appearing by telephone right  
24 now. He's waiting for -- to be called at a courthouse.  
25 He's going to let us know when that happens. We'll

1 EULISS - DR. HAZELETT

2 take a brief recess until he's done and hop back on the  
3 record if necessary.

4 Dr. Hazelett, thank you for coming. Again,  
5 my name is Richard Euliss. I represent the United  
6 States of America in this case. Mr. James Leath has  
7 filed suit against the government stemming from some  
8 injuries he suffered to at least one of his eyes. I  
9 just had some questions for you about some of your  
10 medical records that were produced to us by Mr. Sobel,  
11 which is Mr. Leath's attorney.

12 I believe the court reporter has given you a  
13 composite exhibit; is that right? You have that there?

14 **A.** Yes.

15 MR. EULISS: Okay. Jonathan, just so  
16 you know, this is the same packet of  
17 information we sent to you yesterday.

18 BY MR. EULISS:

19 **Q.** Dr. Hazelett, do you recognize these  
20 materials that are there for Exhibit 1?

21 **A.** Yes. I recognize my portion of them.

22 **Q.** Okay. So are these your medical records for  
23 your treatment of Mr. Leath?

24 **A.** Part of them are. This also includes a bunch  
25 of other doctors' notes.

1 EULISS - DR. HAZELETT

2 Q. Do you know if those other doctors' notes are  
3 part of your medical records that were maybe  
4 transferred to you?

5 A. No, they are not.

6 Q. They're not. Okay. Well, let's get started  
7 with the part that is up here at the top. Actually  
8 before we do that, if you could just explain for me  
9 briefly how you came to treat Mr. Leath?

10 A. The jail called and made an appointment for  
11 him to see me. I work for a hospital and the hospital  
12 has a contract to provide medical care. So they called  
13 and scheduled an appointment.

14 Q. Okay. So you regularly see VOP inmates then?

15 A. When needed I do.

16 Q. Okay. All right. Let's go ahead and dive  
17 into these records, if we could. You'll see there are  
18 Bates numbers at the bottom, PLF dash and then some  
19 numbers?

20 A. Yes.

21 Q. If you could please page through and tell me  
22 the page number where it's your testimony that your  
23 medical records stop and somebody else's begins?

24 A. Mine start on 22 and mine --

25 Q. Uh-huh.

1 EULISS - DR. HAZELETT

2 A. -- end on 31.

3 Q. Okay. Good enough. So it looks like, let's  
4 see here, if we look at page 27, it looks like you had  
5 a visit with Mr. Leath on April 7, 2017. Do you see  
6 that?

7 A. Yes.

8 Q. And then it also looks like on page 22 you  
9 had a second visit on May 25, 2017. Do you see that?

10 A. Yes.

11 Q. Is it your understanding that those are the  
12 only two times that you saw Mr. Leath?

13 A. Yes.

14 Q. All right. Back to page 27, if we can. I  
15 want to go to history of present illness and you have  
16 some text below that. Do you see that?

17 A. Yes.

18 Q. All right. I just want to talk a little bit  
19 about what you have in here and where that comes from.  
20 So it says the 51-year-old male presents for evaluation  
21 of blurry vision in the right eye. And then the second  
22 sentence says it started about five months ago. Where  
23 did you get that information from?

24 A. From the patient.

25 Q. Okay. So this was Mr. Leath's description to



1 EULISS - DR. HAZELETT

2 you?

3 A. Yes. It was his response to questions from  
4 my technician.

5 Q. Understood. So your technician took these  
6 notes then?

7 A. Yes.

8 Q. What's your technician's name?

9 A. This one was, her name was Ashlie Smith.

10 Q. Okay. And does Miss Smith, as far as you  
11 know, take these notes contemporaneously from the time  
12 that the patient offers them?

13 A. Pardon?

14 Q. Sorry. I'll rephrase.

15 Jonathan, are you okay over there?

16 MR. SOBEL: I have to -- I'm actually  
17 going to start right now.

18 MR. EULISS: Okay. We'll adjourn.

19 MR. SOBEL: 15 minutes.

20 MR. EULISS: We'll adjourn for 15  
21 minutes. We'll go off the record.

22 (Whereupon, a recess was  
23 taken.)

24 BY MR. EULISS:

25 Q. Dr. Hazelett, Mr. Sobel is back. He tells us

1 EULISS - DR. HAZELETT

2 that he needs -- that the judge is going to be calling  
3 him back in a few minutes so we'll try to cover some  
4 more ground here.

5 Dr. Hazelett, we were talking about page 27,  
6 Bates mark 27. You had told me that your technician  
7 Ashlie Smith takes these notes for you; is that right?

8 A. Yes.

9 Q. And what I was asking was when we had to  
10 break, whether she takes those notes contemporaneously  
11 with the time that the patient recounts the information  
12 to her?

13 A. Yes. She is sitting with a computer. She's  
14 asking questions and typing while he's answering  
15 questions.

16 Q. Okay. Great. Thank you.

17 All right. So I want to go down a little bit  
18 farther into that paragraph. About midway down towards  
19 the right side it says S slash P trauma to the left eye  
20 05/2016. Do you see that?

21 A. Yes.

22 Q. Can you tell me what S/P trauma means?

23 A. Status post.

24 Q. What does that mean, status post?

25 A. After. That he has a history of trauma.

1 EULISS - DR. HAZELETT

2 Q. Okay. To left eye, okay. With ruptured  
3 globe, does that mean that the eyeball burst?

4 A. Yes.

5 Q. Okay. And laceration to LUL and laceration  
6 to OD. Can you tell me what that means?

7 A. Laceration to left upper lid and laceration  
8 to the right eye.

9 Q. OD is right eye?

10 A. Correct.

11 Q. What does OD stand for?

12 A. Ocular dexter.

13 Q. Okay. What would be the acronym for the left  
14 eye?

15 A. OS.

16 Q. Okay. So there was a laceration to the right  
17 eye?

18 A. That was the history that we were given.

19 Q. Okay. And then I just want to go to the next  
20 sentence. It says he had a medical and now there's a  
21 word there that I'm going to ask you to pronounce and  
22 then tell me what it means.

23 A. That should be medial, not medical, and it is  
24 canthoplasty. And canthoplasty -- the canthus is the  
25 outer angle of the eye, like this area here

1 EULISS - DR. HAZELETT

2 (indicating). And so he had a surgery -- he had a  
3 surgery involving that area, the lateral orbit.

4 Q. So is --

5 A. The outside edge.

6 Q. Is it actually like the bone?

7 A. The canthus is the tendinous tissue that hold  
8 the eyelids to that bone. It's an anatomical term for  
9 this angle here, the canthus, that area of the eyelids.

10 Q. Okay. Understood. Okay. So I want to go a  
11 little farther into the notes from that April  
12 7th meeting. So if you could please turn to page Bates  
13 marked 30 and let me know when you're there, please.

14 A. I'm there.

15 Q. Okay. Towards the bottom we have some boxes  
16 there. Number 3 where it says assessment, age-related  
17 nuclear cataract bilateral, do you see that?

18 A. Yes.

19 Q. Does bilateral mean both eyes?

20 A. Yes.

21 Q. Okay. And what's an age-related nuclear  
22 cataract?

23 A. The lens of the eye as we age becomes  
24 cataractous and there's different areas of the lens  
25 that can be described. The nucleus is the center

1 EULISS - DR. HAZELETT

2 portion of the lens.

3 Q. Do you know whether or not that cataract, the  
4 age-related cataract, in Mr. Leath's case, affected his  
5 vision?

6 A. No. I don't think it had anything to do with  
7 his vision in either eye.

8 Q. Okay. Do you know -- what's your basis for  
9 that belief?

10 A. That's a very minimal amount of cataract that  
11 was described on the right eye, and this is, in my  
12 opinion, an error in the record because it's -- I don't  
13 think that the exam describes a cataract in his left  
14 eye. So I think this should be an age-related cataract  
15 right eye and a cortical cataract in the right eye  
16 because that's what's described in the notes.

17 Q. Understood. Okay. So what's the  
18 difference -- now, you explained age-related. How does  
19 a cortical age-related cataract differ from just the  
20 age-related cataract?

21 A. When the lens of the eye forms, the nucleus  
22 forms first, the center-most portion. You sort of  
23 regard it as an oblong onion. The nucleus is the  
24 center. The cortex is the next layer. The next layer  
25 is the layer underneath the capsule and there's the

1 EULISS - DR. HAZELETT

2 capsule. So it's just the area of the lens where this  
3 occurs.

4 Q. Okay. Understood. All right. And then I  
5 just want to go to page 31 where it says assessment,  
6 slash, plan. Do you see that?

7 A. Uh-huh.

8 Q. Number 2, assessment, it says blindless --  
9 excuse me, blindness left eye, normal vision right eye.  
10 Do you see that?

11 A. Yes.

12 Q. Now, how do you define normal vision in this  
13 context? Would that be 20/20? What does that mean?

14 A. He's seeing 20/20.

15 Q. Okay. So he's seeing 20/20 in his right eye?

16 A. It's not necessarily a description of all the  
17 vision in that eye. It's a description of the acuity  
18 in the eye.

19 Q. What would the difference be there?

20 A. This describes the acuity, the letters he's  
21 able to read at the end of the room.

22 Q. Oh, I see. Okay. So when you say normal  
23 vision, that means he was able to read the chart?

24 A. Yes. The 20/20 line on the chart.

25 Q. All right. Moving right along, let's see,

1 EULISS - DR. HAZELETT

2 here. Let's go, please, to the May 25th visit that  
3 begins on page 22. And let's go to history of present  
4 illness again. Let's see. We have a quote in that  
5 narrative, "my vision has been getting blurry in my  
6 right eye since I began using the ointment in my left  
7 eye." Do you see that?

8 A. Yes.

9 Q. And I don't know -- feel free to look at the  
10 material around it. I don't understand -- is that  
11 possible that vision in one eye can get worse from the  
12 application of ointment in the other?

13 A. The reason that quote was put in there  
14 specifically like that is because it's sort of a  
15 strange statement for him to make because he's blind in  
16 his left eye. So putting ointment in his left eye  
17 should do absolutely nothing to his right eye.

18 Q. Okay. And then page 26, if we could. Again,  
19 assessment, I just want to confirm that we have the  
20 same information here. So it says blindness left eye,  
21 normal vision right eye, correct?

22 A. Correct.

23 Q. And so does that mean at this appointment he  
24 was again given that letter chart and passed 20/20?

25 A. Yes.

1 SOBEL - DR. HAZELETT

2 Q. In the right eye?

3 A. Yes.

4 Q. Okay.

5 MR. EULISS: Hang on. All right.

6 Dr. Hazelett, I told you I would be quick and  
7 I was. I just want to give Mr. Sobel an  
8 opportunity to ask you any questions if he  
9 has any. Jonathan?

10 MR. SOBEL: Absolutely. I think the  
11 judge is coming in. Can I -- I only have  
12 about five minutes.

13 MR. EULISS: Okay. Five minutes of  
14 questions? Okay.

15 MR. SOBEL: Yes. I'll send you an  
16 e-mail right back.

17 MR. EULISS: Okay. Thanks. So let's go  
18 off the record.

19 (Whereupon, a recess was  
20 taken.)

21 EXAMINATION

22 BY MR. SOBEL:

23 Q. Good afternoon, Doctor. I apologize for the  
24 way that this transpired. Can you hear me?

25 A. Yes.



1 SOBEL - DR. HAZELETT

2 Q. Did she say yes?

3 MR. EULISS: She did say yes.

4 BY MR. SOBEL:

5 Q. Doctor, are you an ophthalmologist, a  
6 optometrist? What's your specialty?

7 A. I'm an ophthalmologist.

8 Q. Okay. Is that a doctor --

9 A. I'm an M.D.

10 Q. -- that practices surgery?

11 A. I'm an M.D.

12 Q. Excuse me?

13 A. I'm an M.D.

14 Q. Okay. Now, when Mr. Leath, when you saw him,  
15 was that in the prison or was that in your office?

16 A. In my office.

17 Q. Okay. Someone from the prison transported  
18 him to your office, correct?

19 A. Yes.

20 Q. And do you treat, regularly treat, inmates  
21 from Big Sandy in your office?

22 A. I see prisoners maybe five, six times a year.  
23 It's not a common occurrence.

24 Q. Okay. Do you ever go to the prison to treat?

25 A. No.

1 SOBEL - DR. HAZELETT

2 Q. Is it fair to say you've only seen Mr. Leath  
3 on two occasions?

4 A. Yes.

5 Q. And do you know at whose request it was? Did  
6 Mr. Leath make the request or did the prison make the  
7 request?

8 A. I do not know. He appeared on my schedule.

9 Q. And did you have any records with you when  
10 you were meeting with Mr. Leath?

11 A. No.

12 Q. The records that your office provided, do you  
13 know where they came from?

14 A. The records my office provided are page 22  
15 through 31. The rest came from somewhere else.

16 Q. And it's your testimony you didn't have those  
17 records at the time that you met with Mr. Leath?

18 A. Yes.

19 Q. Okay. Did you ever review those records?

20 A. This is the first time I've seen the rest of  
21 those records, today.

22 Q. Okay. The first time you saw them was today;  
23 is that what you said?

24 A. Yes.

25 Q. Okay. And how long was your appointment with

1 SOBEL - DR. HAZELETT

2 Mr. Leath?

3 A. I have no idea.

4 Q. And everything he told your assistant was  
5 written down in the notes?

6 A. I don't know what he told my assistant. I  
7 know what I've read, which is what my assistant typed  
8 in.

9 Q. And the appointment consisted of your  
10 examination of him?

11 A. Correct.

12 Q. Okay. And do you know why you only saw him  
13 on two occasions?

14 A. When I saw him on the second occasion, at  
15 that point in my note I specified return in three to  
16 four weeks and that did not happen.

17 Q. And he never -- I'm sorry?

18 A. And that did not happen.

19 Q. Okay. So he never returned?

20 A. Correct.

21 Q. And in your examination, did he have any  
22 vision in his left eye?

23 A. No. Actually --

24 Q. It's your testimony that the vision in his  
25 right eye was --

1 SOBEL - DR. HAZELETT

2 A. Actually I made an incorrect statement. The  
3 three to four weeks was on the initial exam and he did  
4 keep that appointment. On the second exam it said  
5 return in one year and that is the appointment that  
6 wasn't kept.

7 Q. Okay. And I forgot what I was asking you.  
8 Is it your testimony that in his right eye the vision  
9 was 20/20?

10 A. Correct.

11 Q. Did you notice any bruising or lacerations to  
12 the right eye?

13 A. At the time I saw him, I did not notice any  
14 bruising or laceration, but it was apparently at least  
15 a year since his injury.

16 Q. Okay. Obviously you have no idea what his  
17 condition is today, correct?

18 A. Correct.

19 MR. SOBEL: That's all. Thank you,  
20 Doctor.

21 MR. EULISS: Real quick, I'm going to  
22 ask two business records questions, Jonathan.

23 MR. SOBEL: Yes.

24 MR. EULISS: Just because Dr. Hazelett  
25 is not going to be available for trial.

1 EULISS - DR. HAZELETT

2 EXAMINATION

3 BY MR. EULISS:

4 Q. Doctor, the pages from 22 to 31, is keeping  
5 medical records such as these a regular practice at  
6 your office?

7 A. Yes.

8 Q. Okay. And are those medical records kept in  
9 the course of regularly-conducted activity, that being  
10 the practice of medicine?

11 A. I'm not sure what your question is. It's  
12 normally a practice to keep medical records.

13 Q. Sure. I'll ask it again. It's some lawyer  
14 lingo. We can break it down if we need to but so you  
15 can hear it again.

16 Are those records from pages 22 to 31, are  
17 they kept by your office in the ordinary course of  
18 regularly-conducted activity, being the practice of  
19 medicine?

20 A. Yes.

21 MR. EULISS: Okay. Thank you.

22 Jonathan, anything else? Dr. Hazelett, thank  
23 you.

24 THE REPORTER: Mr. Sobel, do you need a  
25 copy?

1 EULISS - DR. HAZELETT

2 MR. SOBEL: No, I don't. Thank you.

3 THE WITNESS: I would like to review  
4 my --

5 MR. EULISS: Yes.

6 THE WITNESS: What's written from what I  
7 said, my statement.

8 MR. EULISS: Absolutely. I'm sure Tracy  
9 will make a note that you've elected to read  
10 and sign.

11 THE REPORTER: Yes.

12 MR. EULISS: Dr. Hazelett, thank you.

13 (Whereupon, the deposition was  
14 concluded at 12:19 p.m. and  
15 the witness reserved her right  
16 to read and sign the  
17 deposition transcript.)

18 \* \* \* \* \*

19

20

21

22

23

24

25

Hazelett, M.D., F.A.A.O. Kay  
James Leath v. United States of America

March 29, 2019

23

A T T E S T A T I O N

I, the undersigned, have read the fore-  
going transcript, and, with the exception of  
any corrections specified on the attached  
correction sheet, attest it constitutes a  
true and correct transcription of my testimony  
given at the time and place specified therein.

(Signed) : \_\_\_\_\_  
KAY HAZELETT, M.D., F.A.A.O.

Witness: \_\_\_\_\_

Date: \_\_\_\_\_

TZN

Hazelett, M.D., F.A.A.O. Kay  
James Leath v. United States of America

March 29, 2019

24

2 ERRATA SHEET

3 STATE OF GEORGIA )  
4 ) SS.  
5 COUNTY OF CHATHAM )

6

7 I wish to make the following changes

8 for the following reasons:

9

10 PAGE LINE

11 \_\_\_\_\_ CHANGE: \_\_\_\_\_

12 \_\_\_\_\_ REASON: \_\_\_\_\_

13 \_\_\_\_\_ CHANGE: \_\_\_\_\_

14 \_\_\_\_\_ REASON: \_\_\_\_\_

15 \_\_\_\_\_ CHANGE: \_\_\_\_\_

16 \_\_\_\_\_ REASON: \_\_\_\_\_

17 \_\_\_\_\_ CHANGE: \_\_\_\_\_

18 \_\_\_\_\_ REASON: \_\_\_\_\_

19 \_\_\_\_\_ CHANGE: \_\_\_\_\_

20 \_\_\_\_\_ REASON: \_\_\_\_\_

21 \_\_\_\_\_ CHANGE: \_\_\_\_\_

22 \_\_\_\_\_ REASON: \_\_\_\_\_

23

24

25 (Signed) \_\_\_\_\_  
KAY HAZELETT, M.D., F.A.A.O.



2

C E R T I F I C A T E

3

4 STATE OF GEORGIA:

5 CHATHAM COUNTY :

6

7

I hereby certify that the foregoing

8

transcript was taken down, as stated in the

9

caption, and the questions and answers thereto

10

were reduced to typewriting under my direction;

11

that the foregoing pages 1 through 24 represent a

12

true and correct transcript of the evidence given

13

upon said hearing, and I further certify that I am

14

not of kin or counsel to the parties in the case;

15

am not in the regular employ of counsel for any of

16

said parties; nor am I in anywise interested in

17

the result of said case.

18

19

Signed this the 18th day of April,

20

2019.

21

22

23

---

TRACY Z. NORWOOD  
Certified Shorthand Reporter,  
6569-8937-0082-9184, and Registered  
Professional Reporter

24